App. F. IX-4

Previous References

1938.
(Law)

File No. 44938
Serial Nos. 1,2,5,6,
7,7a,8+9

Letter References
law dep 21 939

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Eight only

Part B for August 1939.

SUBJECT.

Medical stores defalcation cases before the Assistant Sessions Judge, Bangalore.
(Sessions Case No. 2 of 38-39).
Prosecution of Mr. C. Venkateshiah Setty, stock-holder, Govt. Medical Stores.

0295—GPB—22,500—18-8-37

Mirza Nazeer Hasan
24/8/39.

Sanction to prosecute Mr. C. Venkatesh Stock-holder, Govt. Medical Stores

General and Revenue Secretariat

Laws File No. 44 of 1938. [App. F. III–2

Serial No.

From

The Dist. Regr.

B Hare

Letter no II-P.R. 100/37-39, dt 10-9-38 stating that the investigation in regard to the defalcation in the Govt. Medical S investigation in one has been completed and a charge sheet has to be placed under Sec: 409, 477 against C. Venkatesiah setty and Munis Mor. in the city Magistrate's Court, R... and requesting Sanction of Govt. to prose Mr. C. Venkatesiah Setty, Stock holder in the G Medical Stores.

1) It is stated in the investigation Report (Flag D) that extensive fraud was being committed from time to t in the Medical Stores by Mr. C. Venka Setty, Stock-holder. He is an officia drawing Rs. 125/- per month. Sanction therefore solicited under Sec: 197 Cr.P. to prosecute him.

2) A draft G.O. sanctioning is su for order.

14/9

3) As the official's salary exceeds Rs 100/-, he is not removable f his office save by or with the Sanction

Defalcation in Medical Stores
Sanction to prosecute

(1)

File No. Laws 44 of 1938.

General and Revenue Secretariat

Serial No.

Government Sanction under Sec. 197 Cr. Proc. is therefore necessary to prosecute the said official.

4) The draft put up may be approved

BKR 14.9.38

Addl Secy.)

5) Prompt Mayhe sanctioned

2nd Member)
1st Member) 14/9/38

6) Nil

7) JPR 15/9 14/9/38

15/9

8) Done now BKR 16.9

To

(1) The D. M. Bellary.
(2) The S. P. of Police.
(3) The Senior Surgeon.
(4) The Comptr. to Govt.

G.O. No. P. 1570-3, dt. 16-9-38

Sanctions the prosecution of Mr. C. Venkatesiah Setty

SECOND
14 SEPT. 1938
No. 875

Medical Stores defalcation Cases

General and Revenue Secretariat | Law File No. 44 of 1938. [App. F. III–2

Serial No.	
	From The P. P. B'lore Letter no. H. 36, dt 7-10-38 Request for the Govt order appointing the Stock holder and the bond executed by him furnishing Security, and other records.
5	From The P. P. B'lore Letter no. H 37, dt 7-10-38 quest for the reasons mentioned. order Govt to accordingly general Sanction prosecute.

(a) In P. U. D. 1 the P. P. requests the Govt order appointing the Stock older and a few other records.

(b) The Medical Section of the G. O. such may be requested to put up connected file relating to the appointment of the Stock holder in which the required G.O. may be found. As the other records the P. P. may haps be directed to obtain them on the Senior Surgeon.

(c) kind reference is invited

Medical Stores case 248 v

File No. 44 of 1938.

General and Revenue Secretariat

Ser. No.

P. U. D. II in which the P. P. has suggested that the G. O. according sanction to prosecute may be amended so as to make it a general sanction. The suggestion is for consideration and orders.

(2) Re P. U. D. I, it seems desirable that the P. P. should correspond with the Senior Surgeon and get the necessary records and papers through him. If approved, the Senior Surgeon will be requested to give all necessary help to the P. P.

(3) As in P. U. D. II, the P. P. says that it is likely that the accused may be found to be guilty of offences under sections 379, 380, 381 and 403 I. P. C. and that the order sanctioning prosecution may be amended by the inclusion of the said offences or that the sanction may be in general terms.

(4) I do not think that in view of the provisions of Section

Serial No.

197 (2), Sanction can be in very general terms. It is true that in granting Sanction Government need not specify the offences with the same degree of precision as in a charge. But there should be no vagueness and the offence should be properly described As the P.P considers that the facts of the case may disclose offences under Sections 379, 380, 381 and 403 I.P.C, Sanction may perhaps be accorded to prosecute the accused for the said offences also. The A.S.P may either place a fresh charge sheet or a supplemental charge sheet in respect of those offences

BKR
14.10.38

Addl Secy)

(17) Sanction may be granted for prosecuting for offences under Secs 379, 380, 381 & 403 I.P.C also. Sanction has already been given under Secs 409 & 477A I.P.C. under Sec 197(2) Cr. Pro. Code (the sanction section) for the determination the offence or offences. This is optional & not obligatory. Consequently there would be no objection to add the words "or such other offences as the accused may be

found to have committed

(8th Member) Ce 14/10/38

3698
14/10

Rkp 14.10.38

TYPING SECTION. 18. OCT. 1938 GENL. & REV. SECTT.

15/10

Ce, 5/10

Two drafts are put up for approval.

10/ Asst (Secy) 12/10

Ce 17/10/38

(Sd)

G.O. No P 1892—6, dy 18-10-38

Issued No. P/1892 dy 18.10.38.

From

The P. P.

B'lore

Letter no 1138/38-39, dy 8-2-39

States that the first accused in the case Venkatesaiya Setty has been committed to take his trial in the Sessions Court, Bangalore on charges framed under S.S. 409 and

Medical Stores Case.

General and Revenue Secretariat

Serial No.

Laws File No. 44 of 1938 [App. F. III—2

~~The P.P. Bangalore no 1134 of 1938.~~

~~States that the first accused in the case, Venkatesaiya Setty has been committed to take his trial in the Sessions Court, Bangalore on charges framed under Sections 120-B I.P.C. and 477-A I.P.C.~~, and that the second accused Munisami Naidu has been discharged.

19) The P.P. reports in P.V.D. that the first accused, Venkatesaiya Setty, has been committed to take his trial in the Sessions Court, Bangalore, and that the 2nd accused Munisami Naidu, has been discharged.

Submitted for perusal.

11/2

BKR

20) BKR 13.2

Asst Secy)

1st Member

2nd Member

21) 13/2

BKR 14.2

22) nil

23) P.O 19.2 16/2/39

BKR 20.2

From

The Dist. Mag

B'lore

Letter no A- dt 30-3-39

~~pasts~~ Forwards a copy of letter from the circumstances P.P. B'lore, and requests that found

Medical Stores case 6102 √ 6103

File No. Laws 44 of 1938

General and Revenue Secretariat

that
the Govt Advocate may be requested to file a revision petition against the order referred to there:

From
The P.P.
B'lore

Letter no 105, d) 30-3-39
~~Request~~ State that in the circumstances pointed out, a revision petition may be filed against the order of the Dist Judge, B'lore referred to therein.

24) Addl. Secretary's order on P.V.D.: "the G.A may be consulted.

25) Forwarded, with Compliments, to the Govt Advocate, for favour of advice
BK Ramakrishna
31-3-39 Dy Asst Sec

6) Returned with compliments.

(1) I received the records in this case at about 5 P.M. yesterday. I could not meet the Public Prosec to-day as he was engaged in the conduct of the case ou of which this reference has arisen, before the learnec Assistant Sessions Judge, Bangalore. Therefore I had to request the Investigating Officer (Mr.Shivarama Rac and his collegue Mr. Krishna Murthy who is co-operatin with him) to acquaint me with the facts of the case as there were no papers connected with it except a copy of the order dated 28th March 1939 of the learned Judg

(2) The version given to me regarding the charges framed and as subsequently amended together with the evidence sought to be adduced is the following:-

(3) The charges are; Falsification of the entry at the foot of page 189 in Exhibit P-14 on 7-1-1937 by omitting tne credit entry of 50 lbs of Quinine and altering the first figure 2 into 4 in 289 Lbs. and ~~Ozs~~ 12 Ozs. in the same Exhibit on 13-2-1937.

(4) The evidence sought to be adduced consist of three items described below:-

a) Oral evidence of two officers - Doctors Hirianniah and Chokkam Iyengar, to the effect that the Accused instigated tne Ledger Clerk by name Thimmiah to make an incorrect debit of 318 lbs.12 Ozs. of Quinine on 28-5-1936.

b) The depletion of the figure 534 lbs. 8 Ozs. to 494 lbs. 8 Ozs. in June 1936 - exact date on which this was made is not available. This figure is in the hand-writing of the Accused.

c) Proof of the figure 3700 in tne handwriting of the Accused on 22-10-1937 as being the actual quantity of Quinine available in the Store on that day and which was carried from the old place in the Avenue Road to the new Stores in the Palace Road, to show that the stock had been depleted to the extent of 323 lbs. as the actual quantity should have been 4023 lbs. 4 Ozs. if the Accused had not been pilfering from the Stores.

(5) It appears on the 28th Ultimo three witnesses only were examined before the question under consideration arose and order passed. The witnesses were -

WD 0544—GPB—30,000—2-9-38

were - (1) Doctor Govindasamy, Officer-in-charge of the Mental Hospital who gave evidence of a general character that he examined the stock once in 1936.

(6) The second witness was Dr. Ramachandra Murti who testified to the fact that he received 12 lbs. 8 Ozs. of Quinine in January 1937 the corroborative entry of which in the Stock Ledger was missing

(7) The 3rd witness was Mr. M. Wynne, Superinten of Police, Bangalore City, who formally proved the Order of the Government sanctioning the prosecution of the Accused.

(8) At this stage it appears the learned counsel for the Accused mentioned to the Court that he would object to the prosecution adducing evidence mention in items (a), (b) and (c) referred to above. On th a discussion was held and the order passed.

(9) Since there are no papers in the file connec with the case except a copy of the Order and a copy of the letter from the Public Prosecutor to the District Magistrate which does not contain any of t things referred to above, I request that the Public Prosecutor may be asked to certify to the correctn of what all is stated above, and the file returned

General and Revenue Secretariat | File No. | of 193

Serial No.	
	27) I had a discussion with the Public Prosecutor today in regard to the points made above by the Govt Advocate. The Public Prosecutor makes the following modifications:— (a) Dr. Hinjamuri who was taking charge from Dr. Chokkam Jaggayya found a deficit on 26.5.36. The accused then said that 318 tts 12 as had been issued to the D.T.L & that he would post the entry. The accd got the entry made. Then he made the false entry of 772 tts in the 6th Column (i.e balance). 5 witnesses of the D.T.L will depose that 318 tts 12 as was not received by them. (b) The date on which this entry appears to have been made is 10.6.36. (c) The facts as stated are Correct. Both the entries are in the handwriting of the accd. Cl. 2/4/37
	28) Forwarded to the Govt Advocate with Compliments

prosecution examined by the learned City Magis-
trate.

(2) At the outset I wish to state that assumin
for the sake of argument that the evidence sough
to be adduced was relevant, the stage at which i
was attempted to be introduced was much too earl
As already mentioned by me in my earlier note wh
correctness is now confirmed the evidence adduce
till then had not even touched the fringe of the
charge, let alone its having been proved. It is
only after proving the charge that in the opinio
of the learned Chief Justice, evidence of the kin
in question can be introduced. "It is incumbent
on the prosecution to establish how far the offe
with which the appellant (sic-accused) is charg
is brought home to him by proof aliunde before -
calling into aid, by the application of sections
14 and 15 of the Evidence Act, evidence of simil
transactions both prior and subsequent to the -
alleged offence, for the purpose of its being
taken into consideration as a piece of relevant
evidence in proving the knowledge or intention
of the appellant (sic - accused) if such know-
ledge or intention is a relevant fact in provin
the offence with which he is charged". Vide:
35 Mysore Chief Court Reports, page 319 at 338,
a case relied on by the prosecution itself.
Though this reason is not mentioned in the -
order of the learned Judge, I think it is quite
open to the accused to support its correctness
in the manner indicated above.

(3) The order in terms does not seem to rejec
the contention of the prosecution. In paragra

the learned Judge says that "the prosecution is not entitled to adduce evidence of any similar acts in relation to the acts mentioned in the charge, Unless such similar acts are of the same specific kind as the acts charged". Whatever the learned Judge might have observed orally, the words used in the order "specific kind" cannot but mean manipulation of the figures as mentioned in the charge, for example change of figure 2 to 4. If that be so, I think the prosecution can well bring this aspect to the notice of the learned Judge so far as item (b) is concerned; it is of the same specific kind as is mentioned in the charge namely alteration of the figures though the desired effect of such alteration may be different in the two cases, which difference in result is not held by the learned Judge to exclude the evidence.

(4) Regarding item (a) of the evidence mentioned in my earlier note, I find from the copy of the deposition of Dr. Hiriannaiya before the learned Magistrate that after the disputed debit of 318 lbs. 12 ozs. was made, he found on 29-5-1936 that the quantity of quinine in stock tallied with the book balance. Therefore, there was no organic connection between the subject matter of the 1st charge regarding the entries of 1-7-1937 amd 13-2-1937 and proposed evidence in item (a) which was isolated from the ~~latter~~. former

(5) The next item is with reference to the change of the figures 534 to 494 on 10th June 1936 which is

the

:he date given in the file now. As already mentioned
)n 29-5-1936, the stock and the book figures tallied/
is per the evidence of Dr. Hiriannaiya. Therefore, ·
10 lbs. must have been taken away between 29-5-1936 ar
10-6-1936. The distance in time between this and it
)ne of the charge is seven to eight months. So, proxim
f time may not be a very strong point.
So far as item (c) is concerned from this point
)f view of nearness of time the gap is still wider be-
sides being subsequent and not prior to the dates mentio
in the charge while what is really important is the di
:repancy between the stock and the book figures earli
than on the dates mentioned in the charge. It is onl
then that we get at the motive of the accused in the
manipulation of the figures to make them tally with t
quantity in stock while what he did later on may at b
reflect back on his earlier act. Even according to
prosecution the figure 3,700 is not a false entry at
On the other hand, it is, according to them, a correc
entry meant to serve as a memorandum kept by the accu
for his own use to show the exact quantity which he g
transported from the old premises to the new one. Th
may be a piece of evidence to indicate what he had mis-
appropriated on that date, but not certainly a falsif
cation of accounts. So, it cannot be a case of simi
transaction, within the meaning of sections 14 and 1

opposed hereafter also, especially in cases of a political character should be pressed so as to give room for making an inconvenient precedent for the future.

(7) The case-law both in British India and in Mysore is held to preclude the High Court from interfering in pending cases of this kind unless there be very exceptional and really very extraordinary circumstances. Two points are mentioned by the Public Prosecutor for bringing this matter in the class of those rare exceptions, viz., economy in expenditure of money and dislocation of work of professional men perhaps mostly from the moffusil. Even if the proposed revision application should be successful, it will take some time for its termination alone. Till then the witnesses cannot be expected to be attending Court. They will have to go and return which they must do whether the point is decided in favour of the prosecution either in revision during the trial or in appeal after its close. Dislocation, I think cannot be avoided that way. Besides, I learn from the investigating officer, that as a matter of fact, they have been examined since the reference was made by the Public Prosecutor. If that be correct, then the first of the two points i.e., expenditure which may not exceed a hundred rupees or a little more answers itself automatically, and even if it does not I shpuld think it cannot be a matter for such serious consideration

consideration for the Government to invoke the revi-
sional jurisdiction of the High Court in a pending
Sessions matter for the bare purpose of saving some
money.

(8) I think the matter should be dropped and trial
allowed to conclude as speedily as possible.

Government Advocate.

Medical Stores case

General and Revenue Secretariat | Law File No. 44 of 1938. | [App. F. III—2

Serial No.

32) A draft to the Dist Magt, B'lore conveying the orders in paras 30 and 31 supra is put up for approval.

8/4

33) Issue now
BKR
6.4

Issued no. P 5352, dy 6-4-29

34) In the file a copy of the Committal order of the city Magt, B'lore, in C.C. 539/38-39 and copies of depositions of prosecution witnesses 1 to 16, are to be found. They have not been received with any of the letters of the P.Ps, B'lore. Probably they might have been left by the P.Ps with the Addl Secy when he met the latter for a discussion (See para 27)

35) A draft forwarding them to the P.Ps, B'lore is put up for approval.

8/4

36) Issue
BKR
8.4

Issued no. P 5372, dy 8-4-29

Medical Stores case

General and Revenue Secretariat | File No. Laws | of 193 | [App. F. III—2

Serial No.

From

The P. Pr.

Bilaspur

Letter no. 121, dated 19th April 1939 states that the learned judge acquitted the accused in the above case in respect of the charge under Sec: 477-A I.P.C. and that the charge against him under Sec: 409 I.P.C. has been posted to 25-4-39 for trial, and requests in the circumstances stated orders of Govt. in the matter of filing an appeal against the order of acquittal

P. V. D. is for perusal

37) The copy of the judgment acquitting the accused, received from the P. Pr., has been submitted to the Addl. Secy: for perusal in the first instance. The same has not been returned to the branch till now.

38) The P. Pr. says in P.V.D. that the other charge under Sec: 409 I.P.C. against the accused is posted to ~~25-4-39~~ 25-4-39 for trial, and requests orders of Govt. as to whether the same has to be prose-

Medical Stores case 65m

Laws File No. of 193 General and Revenue Secretariat

an appeal against the order of acquittal.—
——— 39) It may take sometime
consider and pass orders on the
question of filing an appeal. Since
the date of hearing of the other charge
is so close as 25-4-39, it seems
to be better to ask the P.Pr to
obtain an adjournment pending
orders of Govt in the matter.

ince the courts are
osed for Summer
doubt was felt ~~as to~~
hearing ~~could~~ may be on
-4-39 as reported.
was ascertained by
me that it is on
5-5-39.
~~adjourned~~

6524/P

Medical Stores Case

General and Revenue Secretariat | File No. Laws of 193 | [App. F. III—2

Serial No.

an adjournment in the case under Sec 409 I.P.C which has been posted to 25.5.39

2nd Member)
1st Member)

A2) Yes
26.4

A3) Nil
26/4/39

27/4/39

A4) Subs with a draft for approval.

27/4

A5) Issued vide P 5700, dt 27-4-39

OFFICE OF THE SECOND MEMBER OF COUNCIL
25 APR. 1939
No. 2273

OFFICE OF THE SECOND MEMBER OF COUNCIL
APR 26 1939
No. 8341

Subs B
1.-39

Medical Stores Case
Appeal against acquittal

General and Revenue Secretariat

File No. Law of 193 [App. F. III—2

Serial No.

MAN'S OFFIC
0 APR. 1939
No. 7709

CrFICE OF
SECOND MEMBER OF C
18 APR. 19
No. 10005

From

The P. Pr, Bangalore

No. 113 of 15.4.39.

Sends a copy of the judgment by the learned Assistant Sessions Judge

4a) For perusal in the first instance.

Sd/- B.K.R.

Addl. Secy)

Sd/- C.S.P.

2nd. Member of Council) 4b) We must appeal.

Sd/- K.V.A. 19/4

4c) Sd/- M.S. 20.4

Letter No. 147, dt. 22/4/39 from the P.P. B'lore forwards a certified copy of the judgment in the case Medical Stores Case.

5) The certified copy of the judt. is placed below

23/4

NOTE—Contn. Sheet.

Pro. 865/38-39 dt. 25.4.39.

Law 21.4

Acquit to U.O. No. P65 dt. 25/4/39

4d) Reference 2nd Member's minute above. Forwarded to the Government Advocate with Compliments

Chandrasekhariya
Addl. Secy
25/4/39

WD 0544—GPB—30,000—2-9-38

cal Stores Defalcation Cas
peal against the order of ac

File No. Laws of 193

noted and returned with compliments. Copies of the charge, Judge's Notes, and of all the exhibit and oral evidence may kindly be sent.

Government Advocate.

H/26.4.39.

5) A draft to the P. P., B'lore is put up for approval

5a) [illegible]

Ttmd no P 5713, dy 28-4-39

To
The P.
B'l

D.O. no 44, dy 3-5-39
forwards copies of some of the records (depositions etc).

From
The P.P
B'lore

Letter no. 188, dy 5-5-1929
forwards copies of judge's notes and evidence and states that it will involve enormous cost and time

√ 68 Medical Stores case
appeal against acquittal

General and Revenue Secretariat | File No. Law of 193 | [App. F. III—2

Serial No.

obtain copies of the exhibits.
Reference para 6 supra.

59) Copies of the judge's notes and evidence received from the P. Pr, B'lore are placed below. As for copies of the exhibits, the P. Pr says that it will involve enormous cost and time to obtain ~~copies~~ them.

54) The records received may be sent to the GA for reference.
Submitted.

55) If approved, the papers will be sent to the Govt Advocate

10/5

BKR
10.5

Addl Secy

56) C 10/5/39

Reference — Para 6.

57) Forwarded with compliments, to the Govt Advocate

No. 100. 9|2|38-39
dy 11.5.39

BK Ramachandra Iyengar
for Addl Secy

11.5.39

58) Returned with compliments.

No. 100. 10|2|38-39
dy 15.5.39

The following routine papers which are not in the

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-83

~~204~~ Medical Stores Defalcation Ca
Dlg — Appeal against the order of a

File No. Laws of 193

ıe file may kindly be got:-

(a) Appendix to Judgment,
(b) The charge on which he was committed and for which he was tried,
(c) the Statement of the accused (under S. 342).

It is stated that obtaining copies of the Exhi-

ts entails enormous cost and time. I may be able

suggest some way out of the difficulty mentioned

bove after I shall have got a view of the case by a

tudy of the papers in the file and also of those

Medical Boards Case
Appeal against acquittal

Serial No.

63) It is for consideration and orders whether the third item has to be called for from the D.R., or the papers now received be sent to the G.A.

19/5

64) Please ask the D.M. to obtain and send direct to the Govt Advocate a copy of the statement of the accused under Sec. 342.

BKR
19.5

Subs. with a draft for approval.

19/5

Attested no P 6131, dt 19-5-39. 19.5 BKR

66) Forwarded with compliments to the Govt Advocate

BKR am at his Bungalow

19.5.39 For Addl Secy

67) Returned with compliments.

My opinion is enclosed in the sealed cover sent herewith.

(Vide page 24)

Govt. Advocate.
Narasappa

H/30.6.39.

(P.S.) Out of the records in this file one set of the depositions of witnesses of both Courts are with the present Development Secretary as they were sent to him for reference as desired by him.

Hon. 932/3822-39 dt 19-5-39

Hon. No. 112/38-39 dt 20.6.39. With a Sealed Cover

These have been received since vide dy. No. 3981/D/8.39

NOTE—Contn. Sheet.

Serial No.

From

The Dist Magt

B'lore

Letter no. T-1 1329-38, dt 19-5-39

Requests in the circumstances stated orders of Govt in the matter of filing an appeal against the order of acquittal passed by the Asst Sessions judge, B'lore in B.S.C. 2/38-29 (Medical Stores Defalcation Case).

68) The question of filing an appeal against the order of acquittal is already under consideration, and the connected file has been sent to the Govt Advocate for expressing an opinion in the matter.

69) As regards the trial of the case under Sec: 409 I.P.C., which is said to have been posted to 25-5-39, the P.P., B'lore has already been directed to obtain an adjournment.

71) When? Please put up the reference

70) In the circumstance it is for consideration and orders whether the return of the main file from the G.A. be awaited, or these papers sent to the G.A. in continuation for his

72) Subd. when the A/S was on leave. Refce papers are in the file sent to

General and I
Secretari

File No. Laws of 193

Serial No.

Reference and return with the main file. 73/4

BKR
24/5

74/ Forwarded with Compliments to the Govt Advocate in continuation

BR Ramakrishnaya
for Gen'l. Secy!
24/5/39

G.O.No.943/33-39 dt 24.6.39

75/ Returned with compliments, in continuation of the main file sent with this office U. O. No. 112 dated this day.

Moore Mackie
Government Advocate.

H/30.6.1939.

U.O.No.113 - 38-39 dt 30.6.39

Confidential.

After perusing such of the records as were available in the file, I selected an off day to go to the Court of the learned Additional Sessions Judge for studying the records, copies of which could not be furnished. Afterwards, I had a discussion with the Investigating Officer (Mr. Sivarama Rao), the District Superintendent of Police, (Mr. Wynne) and the learned Public Prosecutor to get some doubts cleared. I studied the Investigation records kindly furnished to me by the officer concerned.

2. The learned Second Member was pleased to grant my request for an interview in order to place the salient features of the case before him. He very kindly spared more than two hours of his precious time, if I may say so with the greatest respect to him, for the consideration of the question for which I am highly grateful.

3. What will be mentioned below represents the result of all this deliberation.

4. I think investigation was closed on insufficient data. No starting point for tracing the beginnings of the defalcation could be fixed, as at no point of time was there any such regular thorough audit, internal or external, where one could say that the figures in the book not merely tallied with the stock in hand but that the figures themselves were absolutely correct not having been vitiated by antecedent errors, innocent or otherwise. Besides such audit as was made, was partial not only with regard to time but also in respect of stock. It is quite possible for the accused to plead that the ledger regarding quinine sulphate was inaccurate because the figures relating to that stock might have

have strayed into some other ledger or it might be that the totals (subject-matter of charges) might not represent the actual stock on the particular dates, and that in - the absence of proof that the stock just corresponded with the total but did not actually exceed the disputed totals -the prosecution not having adduced any evidence regarding the actual stock on the two particular days-- it was difficu to bring home the guilt to the accused. The necessity for the audit is made obvious by the following note of the Investigating Officer dated 7-7-1938:

> "The records are kept in such a disorderly fashion in the Medical Stores that many of the Indents - of 1936-7-8 are not available".

I believe something more might have been done before the accused were charge-sheeted and greater material collected. This is clear from the examination of witnesses at every - stage before the Court of Committal and during trial before the Assistant Sessions Judge. The diary of Investigation does not show that P.Ws. 4, 5, 9, 11, 14, 15, 16, 17, 18, 19 20, 21, 22, 25 and 27 were examined by the Officer. ~~Exhibx~~ P.Ws. 24, 29, 31, 33, 34 and 35 were examined during trial for the first time not by the Police or Magistrate. This impression was confirmed by the Investigating Officer. The total number of witnesses examined at the trial were 36, the trend of evidence of more than half of whom was as fresh to the Police as to the Courts and the accused. Since - charge sheets were placed early, this task of investigation had to be shared by both Courts, of enquiry and of trial. To borrow the language of the learned Judges who recently decided the appeal in the Donation Union Link Case, Investigation was really still being continued at all stages during the time litigation was pending in Courts.

5. A very large quantity of Quinine sulphate in several tins of no small size (being very light in - weight, it requires a lot of space) has been systematically disappearing from a long time. A full audit might have disclosed that the culprit had no particular partiality for this substance only. If so, whereto have this and other goods been moving on all these - years? There is no evidence whatever on record to throw light on this very important aspect. Tracking this might have led to a full disclosure of the modus operandi employed by the guilty.

6. I cannot make up my mind to believe that the accused alone, unaided, could have depleted the stock to such an extent as may, without exaggeration be - called colossal. He must have been in league with - some others, either equally guilty along with him or in varying degrees. Some others might have created a favourable atmosphere, perhaps innocently, by supreme indifference as a result of much too firm faith in - delegated work. This was perhaps a case where evidence of the co-accused, even though tainted, would - have probably lifted the veil. As it is, the picture being incomplete and patchy in parts, does not give a full view.

7. After charge sheets were placed, prosecution had some inherent difficulties to contend with, which rendered its success very problematical. They had no option but to cite certain high officers connected with the department who were placed in a dilemma when they - gave evidence in Court. They had to state that they

discharged

discharged their duty by obeing the orders of the - Government on the point, for example, P.W.9 swore - that keys and seals of the stores were with him and that nothing could go out of it without his knowledge. P. W. 10 followed him up even more emphatically by - stating that the keys of the stores and the seals were always with him; that he was personally bringing them when opening and closing the stores and sealing it, and that he did not find any irregularity in his time thoug he checked the stock with the book balance (between - 1-6-1936 to 16-5-1937)-which covers both the dates mentioned in the two charges, 7-1-1937 and 13-2-1937). - P.W.22 corroborates the version that Superintendents used to have the keys and that all the goods were being received and issued under their supervision and that no articles could go out without their knowledge. P.W.30 the last witness on this point, i.e., the Officer who i in charge of it from 16-5-1937 said that all issues and receipts of Quinine were done under his immediate presence.. If the evidence of these officers is true -- it does not lie in the mouth of the Prosecution to say that it is otherwise-- the accused could not have thoug of better material to seek a way out. The failure of the prosecution may thus cause no surprise.

7. The first charge was omission from the totals of 7-1-1937, a credit entry of 50 lbs. If this omission was fraudulent, it must have been made to cover up a past misappropriation, though in theory, entry can be false even when made to screen other offenders, past or future.

The

he charge before its amendment specifically mentioned his offence and I understand that the charge which is ntended to be pressed in the ensuing trial is this - dential one. The prosecution has to prove the falsity f the entries only by proving that it was made to cover up a past misappropriation. To put it vaguely, as - screening unknown offenders of the past or prospective offenders of the future is merely to cruise in uncharted waters. If the omission was to hide a past misappropriation by the accused as the course of the prosecution leaves no doubt in the matter, what is the evidence to show that on or before that date the accused had misappropriated 50 lbs. As already mentioned, there is nothing to show that the stock did not contain on that day this quantity of 50 lbs. ignored in the totals. The evidence of the Officers makes it impossible or - highly improbable that the accused could have pilfered it. The ledger entries which go to make up the totals are admittedly not his or the original totals which have been merely inked by the accused. Suppose the ledger - clerk made a mistake which was merely copied by the - accused in the routine of the day, it will not be a - falsified entry under section 477-A of the Penal Code.

8. There was another difficulty for the prosecution. Two pages of the ledger are torn, one end in - each page. When exactly they were torn cannot be - gathered from the evidence. P. W. 30 noticed them only on the 29th June 1938 and 15th July 1938, subsequent to the alleged burglary and P. W. 10, his predecessor -

stated that he did not notice them at all. So, to put it most favourably to the prosecution, the tearing ax of the pages must have been subsequent to 16-5-1937 when he left that office. That is to say that the accused took the risk of exposure for at least one quarter of an year when these palpably glaring errors could have been discovered at a glance. I think the learned Judge is righ in counting this as a point in favour of the accused.

9. The proof of the entries on the torn pages added to the difficulties of the prosecution. They had to reconstruct the entries and the earlier of these pages gave less trouble because the tear was smaller. 'Mudram' a part of apparently 'Sivasamudram' remains, as also the horizontal stroke in '2'. There is some oral evidence to prove that it related to an indent of 12 lbs. and odd of quinine from Sivasamudram, but there is no receipted indent for this specific item. The learned Judge holds that the proof is not concludive. His finding seems to be correct. Even otherwise, the error if an will not be of very great importance. I have not adverte to the other torn page because the tear is much more extensive; consequently, reconstruction, even more difficu On the evidence allowed to go into record, the unanimous opinion of the assessors accepted by the learned Judge can be said to be wrong.

10. Coming to the materials that were shut out by the learned Judge, I gave some reasons why his order should not be taken up in revision (Vide: para 26 of the notes in Law File No.44-1938 and dated 1-4-1939). Though one of them, (interlocutory nature of it) has now lost its force as the trial has been since concluded, I think ~~the~~ other reasons still hold

hold good. The ruling seems to be correct and I believe it cannot be successfully attacked in appeal.

11. I shall consider the evidence proposed to be let in, assuming for the present that it is admissible. It consisted of material to show that the debit of 318 lbs on 28-5-36 was false. I think the evidence of P.W.10, - as recorded by the Magistrate during enquiry is fatal to the prosecution on this point. He says that the entry was corroborated by a voucher from the laboratory. He did not repeat it during the trial only because of the Judge's ruling, which if held to be wrong, will necessarily let in all his statements which are very favourable to the accused.

12. Regarding the next item, 494 lbs. and odd on 10-6-1936, its strength is no higher than of the charge item of 7-1-1937. There is no material available from the investigation to show what the actual stock in the - stores on 10th June was. The accused may therefore, - reasonably contend that the stock was alright but perhaps his arithmetic, or even better for him, he merely followed the bad arithmetic of the ledger clerk.

13. Regarding the last item of 3,700 lbs. on - 22-10-37, it is eight months ahead of the dates of offence just as the first two items are earlier by the same interval. If this 3,700 lbs. which is alleged to be in the handwriting of the accused could be proved to be the entire - stock of quinine sulphate that was removed from the old to the new building, it would be of some importance to prove that the stock was low as compared with the book - balance. Here also, the prosecution has to contend -

against their own evidence. The accused noted the stock that was transported in lorries, in order to compute the hiring charges, and 3,700 lbs. represent what was carried by lorry. But quinine sulphate was carried in carts also (Vide: the evidence of P.W.23 in Cross Examination) of - which there is no record by the accused. The entry will - thus become inconsequential. No doubt, these pieces of - evidence were sought to be adduced a little too early befor the main figures of the charges were proved, and therefore, the learned Judge's order came within the ruling of 35 Mysc Chief Court Reports, 319 at 338. But the learned Public Prosecutor repeated his requests during the later stages of the trial also. So, I think, this objection can be over-looked. But what is really fundamental is its relevancy. These data are relied on to show the intention of the accus in putting ~~on~~ false figures from a long time. Unfortunate for the prosecution, the main original figures of the charg are not the accused's, who has merely inked them. So, the evidence sht out may prove somebody else's intention but nc of the accused's. ~~who xhan xmex ky xxinkmd xthem~~ I have doubts whether section 14 or 15 of the Evidence Act is applicable. (Vide: A.I.R. 1933 Calcutta 136, Case of misappropriation, and A.I.R. 1935 Allahabad, 521 which are subsequent to ~~35~~ 35 Mysore Chief Court Reports wherein also the observations not quite unfavourable to the accused). Even if they appl they may prove that the pencil totals are not accidental, does not affect the accused who merely inked them.

14. The evidence of officers who were in charge of Stores during the relevant period, namely, P.W.10, 12, 22, and 30 has been discussed. The evidence of P.W.36, Ledge Clerk, has been characterised by the ~~learn~~ learned Judge a

fals

false and perjured which it really is. The rest of the oral evidence is either formal or inconsequential as for example of P.W.1 or P.W.9, who speak of the state of affairs during their time, years before the time of the alleged offences. The same remarks apply to most of the documentary evidence which does not affect the decision one way or the other.

15. In the matter of filing appeals against acquittals, the prevailing view is that it is an exceptional right given to the Government alone to be exercised in order to set right a patent failure of justice. On many occasions, the learned Chief Justice has been pleased to make observations to that effect and in some instances, he has recorded them also, vide: the observations made in Criminal Appeal No. 8 of 35-36 on the file of the High Court of Mysore:

> ".....we have to deal with an appeal against acquittal; the question before us is, not whether we should find the accused guilty on the evidence in the case, if we were trying the case originally not even whether in our opinion there is sufficient evidence to support a conviction in this case, if it had come before us on appeal against a conviction. In my opinion it would not be proper for us to interfere with an acquittal on an appeal such as this unless we found that the case against the accused was a very clear one, that there was plainly sufficient and convincing evidence to prove his guilt and we were pursuaded that his acquittal was so undoubtedly and clearly wrong that it would (be) a serious miscarriage of justice to allow the acquittal to stand. ....."

the observations in Criminal Appeal No. 22 of 36-37 on the file of the same Court; are to the same effect

> "It is the law of this State, as it is in other parts of India, that the Government may appeal against acquittals. That is a power which should be used with discretion and in my experience is always used with discretion by the Government in this State..... I am sure the Government must feel as strongly as I do that when an accused person who has been

> acquitted after a trial on a serious charge, it is unfair, indeed, cruel to bring upon him the anxiety and misery of an appeal against acquittal, ...",

and those in Criminal Appeal No. 42 of 1937-38: are as fo

> ".....and I think this is one of the exceptional cases in which it is proper for us to set aside the acquittal on appeal and to restore the conviction of accused 1 with the sentence imposed upon him by the learned Assistant Sessions Judge, and I propose that that be now done. .....".

16. I do not think this is a case which can come under that exception. All the three Assessors and the learned Judge agreed on facts that the evidence led by the prosecution did nothing more than raise suspicion. In my opinion, there is nothing very bad with that verdict.

17. In these circu st that the matter may be pursued.

Serial No.

(19) There are two charges against the accused, who was a stock holder in the Medical Stores, of falsifying two entries in the stock register relating to quinine The first charge is that he omitted a quantity of 50 lbs. from the total of the stock entered by him on 7th January 1937. The second charge is that he altered the total of the issues entered on 13th February 1937 from 289 lbs. to 489 lbs. The charge is that he intentionally made these false entries with a fraudulent intention to conceal the misappropriation of quinine which had been previously committed. The accused has been aquitted by the Asst. Sessions Judge. The Government Advocate who has been consulted is of the opinion that there is nothing wrong with the decision and is not in favour of an appeal to the High Court. In order to prove the malafide intention and to show that the false entries were intentional and not accidental, it is permissible under Sections 14 and 15 of the Evidence Act, to put in evidence of similar entries. When the prosecution sought to put into evidence other false entries, the Assistant Sessions Judge gave a ruling that only entries in which a similar method of falsification has been adopted would be relevant and not entries in which other methods are adopted. It will be seen that one item of falsification in the charge is by omitting a certain amount in the total and another

another item is by altering a figure. The ruling of the Court was to the effect that only other entries of omission would be relevant in respect of the first item of the charge and entries of alterations would be relevant in respect of the second item. There are several other methods of falsification indicated under Section 477 A. I.P.C Falsification may be by entering of false issue or inflating an entry of issue The ruling of the Court would rule out as irrelevant such other entries of falsification do not think this ruling of the Court is correct and supportable In 32 Criminal L.J.380, it has been held that whe a person is charged with falsification or accoun any number of falsifications may be proved in ord to sustain the principal charge of falsification Illustration B to Section 15 of the Evidence Act shows that other false entries would be relevant and there is nothing in it to indicate that the method adopted in making the other false entries should be the same as the one in the charge. It would have been desirab to take up the case in appeal to the High Court for a clarification of the law on this point if there is a good case for appeal on facts.

78) Even if the other entries are admitted in evidence and it be held that the entries comprise in the charges are not accidental but intentiona it would still be necessary under section 477 A of the I.P.C. to prove that the accused had the

intention to defraud. The prosecution will therefore have to prove that the accused made these false entries with the intention of concealing misappropriation which he or somebody else had already committed or with the intentic of committing misappropriation in future. The nature of the evidence, as it is, would hardly ~~be~~ ~~corroberation of~~ misappropriation. The evider does not establish that the accounts prior to the date of the entries in question were correc or that the stock was in accordance with the accounts. There is evidence, on the other hand, that the accounts did not tally with the stock even previously. It is not possible to find a starting point on which date the stock might be said to have been correct and from which date to make further calculations to see if the stoc on the dates of the charges was in deficit. Apart from this, there is another difficulty und which the prosecution has laboured. The offici witnesses who have been examined have stated in effect that things were all right, that they did not ~~note~~ notice any irregularities in their inspec tions. P.W.9 and P.W.10 who were the Superintendents stated that the keys and seals of th stores were with them and they were opening and closing the stores and that nothing could have gone out of the stores without their knowledge.

Obviously, such statements have been made in order to exculpate themselves by saying that they were doing their duty in accordance with rules. What they have stated cannot be a fact, but the prosecution cannot go behind it. The weight of such evidence would go to show that it could not have been possible for the accused or any other abettor of to have purloined quinine from the stores. When the evidence indicates, as it were, that misappropriation was not possible, there would not be possible to contending that the accused or anybody else had misappropriated an the accused wanted to conceal it. It is possi that a Court might conclude in some cases wher a false entry has been proved to have been mad intentionally, that it was made with intent to defraud without further proof of previous misappropriation etc. That is a remote chance (11) In these circumstances, the question of appealing to the High Court may be dropped. There is a charge of misappropriation under section 409 I.P.C. pending against the accused in connection with these same false entries. In that case also the nature of the evidence would be almost the same. When the case of falsification itself does not stand, it would be hard to establish misappropriation, because there is has been no previous audit and no

Medical Stores Defalcation Case

General and Revenue Secretariat

Law File No. 44 of 1938 [App. F. III–2

Serial No.

OFFICE OF THE FIRST ASSISTANT TO THE DEWAN AND SECRETARY TO GOVERNMENT
AUG 1 1939
1645

correct starting point for calculation and it would not be possible for the prosecution to prove on which particular date the quinine was purloined The case of misappropriation would therefore have to be withdrawn. If, after further investigation, ar other entries of falsification or misappropriation could be proved, a prosecution may be lad in regard to them.

80) The P.P. also thinks that the charge under Sec 409 is not so strong as in one in which there has been acquittal.

DEWAN'S OFFICE
4 AUG. 1939
No. 556
15.7.39

2nd Member / 1st Member, 81) [illegible] 3/8/39

82) [illegible] 2/8/39

G 2/8/39

TYPING SECTION GEN. C...

83) A draft to D. R. Bilore is put up for approval. 3/8

Hg. date 15-8-39.

84) Law Secretary) submitted for personal [illegible]) 3/8/39

G 3/8

3/8/39

SECY. LAW DEPT. 3 AUG. 1939 GOVT OF MYSORE

85) [illegible] 4/8

G 5/8/39

DEWAN'S OFFICE
4 AUG. 1939
No. 969

86) [illegible]

Sheet No. P 711, 7-8-.

NOTE—Contn. Sheet.

8) This will, if approved, be sent to the Medical Section of the G.M. Branch for ~~perusal~~ and kind return.

Thanks for your assistance necessary.

IMMEDIATE & CONFIDENT

In all future communications please quote
No. J.1-P.R.100/38-39.
Enc. One

Tel. Address.—"DEPCOM"
Post Box No. 34.

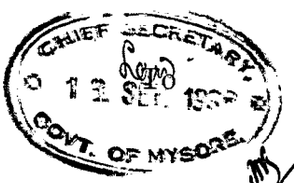
OFFICE OF THE DISTRICT MAGISTRATE,
BANGALORE DISTRICT.

Dated, Bangalore, the.....10th..Septr.....*193* 8

Law 44-38-1

FROM

Abdul Aziz Khan, Esq., B.A.,
District Magistrate,
Bangalore District.



B. T. Kesavaiengar, Esq., B.A.,
Chief *Secretary,*
to the Government of Mysore.
Bangalore.

SIR,

Subject:— Sanction for prosecution under Sec. 197 (i) Criminal Procedure Code, against Mr. C. Venkatesiah Setty, Stock-holder, Government Medical Stores, Bangalore.

- oOo -

I have the honour to state that the City Superintendent of Police, Bangalore, reports that the margina

i) Cr.No.7/38-39 - Accused C. Venkatesiah Setty and Muniswamy for offences under Secs. 409, 477 (A) an 109 I.P.C.
ii) Not mentioned - Accused - Same Offences - same.
iii) Cr. Nos. 9/38-39 - Accused - C. Venkatesiah Setty for offences under Secs. 409 and 511 I.P.C
iv) Cr.No. 24/38-39 - Accused C. Venkatesiah Setty, for offences under Sections 409 and 477 (A) I.P.C.

noted cases arising out of defalcation in the Government Medical Stores have been registered and are being investigate by the Police and a copy of the report of the Police Inspecto received in this connection is herewith sent for favour of information. Out of the 4 cases under investigation, the Police investigation in Cr. No.7/38-39 has been completed and a charge-sheet has to be placed against the accused (i) C. Venkatesiah Setty (Stock-holder in the Government Medical Stores) and (2) Muniswamy Modaliar in the City Magistrate's Court, Bangalore. The other 3 cases under investigation ari out of the same case and relate to the misappropriation of different articles of stores at different periods and as the accused Mr. C. Venkatesiah Setty was the stock-holder at the

Government to prosecute Mr. C. enkatesiah Setty the offences in the four cases referred to above.

As the other accused, Muniswamy Modaliar though a public servant does not come within the purview of Sec. 197 Cr. Pro. Code; sanction of Government is not necessary to prosecute him

I request the favour of early sanction for enabling the Police to prosecute the case.

Submitted:-

Beg to state that a complaint was received through the Superintendent, Medical Stores on 28-6-1938 alleging that an offence of house-breaking and theft had occurred in the said stores on the previous night. A list of articles alleged to have been stolen was also received from the Superintendent in the course of the day on the same date. It was stated that 533.12 lbs. of quinine sulphate valued at Rs.10,408-2-0 was stolen among other articles of comparatively small value. A case was thereupon registered under Sec. 457 & 380 I.P. and investigated.

2) It was disclosed after careful investigation that the offence of house-breaking and theft in question was false and was got up to cover the extensive fraud that was being committed from time to time in the Stores by the Stock-holder Mr. C. Venkatesiah Setty and others.

3) A final report under 'B' form was hence submitted in respect of the allegation of the offence of house-breaking and theft.

4) A careful scrutiny made so far of the books of accounts and correspondence at the Stores and elsewhere disclosed the following fraud:-

i) Misappropriation of 238 lbs 4 ozs. of Quinine Sulphate between 2-1-37 and 9-6-1937.

It is found from the ledger maintained at the Stores that a quantity of 50 lbs. of quinine received from Holand on 2-1-37 was not taken into account. a quantity of 200 lbs. had been falsely shown as issued by inflating the issue total between 7-1-37 and 13-The stock-holder was responsible for the custody of

nd when the Superintendent of the Stores inspected he stock on 9-6-37, he found only 11 lbs. 12 oz. n excess of the book balance on that day, thereby videncing that 238 lbs. 4 oz. had been misapprppr om the Stores. A crime under Sec. 409 - 477 A. 09 I.P.C. has been registered in this connection Crime No.7/38-39 of Crime Branch against C. Venkat Setty and Munisamy Mudaliar working as a compound in the Stores)

2. A separate crime under the same sections against the same persons is being investigated in pect of 533 lbs. 12 oz. of quinine sulphate and ot rticle of stores found short in the sotres wher checked by the Superintendent of on 28-6-1938.

3. The Stores were inspected exhaustively by the Superintendent after the date of alleged thef nd it was reported that several articles of stores viz., instruments and drugs of the value of Rs.1264/ had been hidden by the stock-holder in the Stores with a view to misappropriate them. A case under Sections 409 - 511 has been registered against the stock-holder and is under investigation No.9/38-39.

5. The approximate value of the instruments and drugs misappropriated by the aforesaid accused comes to Rs.22,500/- approximately so far as the above mentioned cases are concerned.

6. It is ascertained that the accused Mr. C. Venkatesiah Setty was drawing a pay of Rs.125/- per month and is a public servant not removable from his office save by or with the sanction of Government. Since he is accused of an offence committed by him while acting or purporting to act in the discharge of his official duty, sanction of the Government may kindly be caused to be obtained for prosecuting him.

" Copy "

District Magistrate,
Bangalore District.

gvm/-

G. R. S. App. F VI—G 2]

SUBJECT 16/9

.....

.....

Diary. No of letter replied to .....

General and Revenue Secretariat

( )

the *193*

Section Law

File No. 44-38

Serial No. 2

Proceedings of the Government of His Highness the Maharaja of Mysore.

Date of issue ..... 16.9. ..... 1938.

Signed by ..... Mr. B K R.

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part ?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette, Kannada Part ?

Read— Letter No. JI-P.R. 100/38. dated 10th September 1938 fr the Dist. Magte, Bangalore stating that ~~out of four ca~~ in connection with Regarding the defalcation i the Govt Medical Stores, the ~~Police~~ ~~investigation in one has bee~~ Order thereon ~~No.~~ Completed and ~~that~~ the Police propose to pla ~~a~~ Charge Sheets under Section 409, 477(a) and 109 I.P.C., and 511 I.P.C. against (1) C. Venkatesiah Setty (Stock-holder in the Govt Medical Stores) and (2) Meniswami Mudaliar, in the Court o

city Magistrate Banga

whom Mr C Venkatesh

~~Esq~~ Stock-holder, getti

Salary of Rs 125/- per

a Public Servant not

removable from office save

by or with the sanction of

ovt and therefore soliciting

unction of Govt under Sec.

197 Cr. P.C. for prosecuting

he said Mr. C. Venkatesiah Se

Order No PIS10—3. dated

under Sec: 197. Cr. P

unction is accorded to

ecute Mr. C. Venkatesiah

ock-holder, Govt Medical

ories, Bangalore for the

ences mentioned above, the

istrict superintendent of Pol

ngalore city being author

take further proceedings

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

City Magistrate, Bangalore

CL

DRA 14.9 Additional Secretary

14/9/38

To

(1) The Dist. Magt., Bellary.

(2) The D. G. & Police.

(3) The ~~D.S.G.~~ Senior Surgeon.

(4) The Comptr. to Govt.

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read:-

Letter No. Jl. S.R.100/38-39, dated 10th September 19[illegible] from the District Magistrate, Bangalore, stating that in connection with the defalcations in the Government Medical Stores, the Police propose to place charge sheets under - Sections 409, 477(a), 109 Indian Penal Code and 511 Indian Penal Code against (1) C. Venkatesiah Setty, (Stock-holder in the Government Medical Stores) and (2) Muniswamy Mudali in the Court of the City Magistrate, Bangalore, of whom Mr. C. Venkatesiah Setty, stock-holder getting a salary of - Rs. 125/- per month is a public servant not removable from office save by or with the sanction of Government and therefore soliciting sanction of Government under Section 197 Criminal Procedure Code for prosecuting the said Mr. Venkatesiah Setty.

Order No. P.S.V.O-3 Law-44-38-2

Bangalore, dated the 16th September 1938.

Under Section 197 Criminal Procedure Code sanction is accorded to prosecute Mr. C. Venkatesiah Setty, xxx Stock-holder, Government Medical Stores, Bangalor , for the offences mentioned above, the District Superintendent of Police, Bangalore City being authorised to take further proceedings in the matter before the City Magistrate, Bangalore.

B.K. Ramakrishnaraja

for Additional Secretary to Government.

P.T.O.

The District Magistrate, Bangalore District.
Inspector General of Police in Mysore.
Senior Surgeon in Mysore.
Comptroller to Government.

.2180/36 P

No. 436

Enc. .....

OFFICE OF THE PUBLIC PROSECUTOR
BANGALORE DIVISION.
DISTRICT OFFICE BUILDINGS,
Bangalore, 7th Octr. 1938 193

FROM

The Public Prosecutor,
Bangalore Division, Bangalore.

To

The Additional Secretary to the Government of Mysore,
Bangalore.

SIR,

Received on 10-10-38

Medical Stores Defalcation case

I have the honour to state that this case is posted to the 11th instant for enquiry. I request that the Government order appointing the stock holder and the bond executed by him furnishing security be kindly sent to me.

The Inspection notes and the reports of the Officers and auditors who checked the stores periodically from time to time for the past six or seven years may be kindly sent to me.

The requisitions for Quinine Sulphate from the stores and the copies of the orders placed for the same during the past 5 years and the records of the payments made may be kindly directed to be sent to me if available.

I have the honour to be,
Sir,
Your most obedient servant,

S Doraswamy Gs
Public Prosecutor.

2172/38 P 838

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION.

DISTRICT OFFICE BUILDINGS,

Enc. .....

Bangalore, 7th Octr. 1938 193

Strictly confidential.

Law 44-38-5

FROM

G.S.Doraswami Iyer, Esq; B.A. B.L.,

Public Prosecuto ,
Bangalore Division, Bangalore.

To

The Additional Secretary to the Government of Mysore,

Bangalore.

Received on 10-10-38

SIR,

I have the honour to invite your kind attention to the sanction accorded by Government to prosecute the accused person concerned in the Medical Stores Defalcation case and to request that sanction may be accorded to prosecute them for any offence that they may be found guilty of. The sanction as it needs may lead to a discussion that the sanction

G. R. S. App. F VI—G 2]

SUBJECT .....

.....

.....

Diary. No of letter replied to .....

General and Revenue Secretariat

( )

the *193*

Date of issue 18/10/ 1938

Signed by Dr. C. S. J.

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part ?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette, Kannada Part ?

Section Law

File No. 44-38

Serial No. 6

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read— G. O. no. P 1570-3 Laws 44-38-2, dated 16th Sept. 38 according sanction under Section 197 Cr. P. C. to prosecute Mr. C. Venkatesiah Setty, Stock holder, Govt. Medl Stores, Bangalore for offence ~~Order thereon No.~~ under Sections 409, 477 (a), 109 and 511 I. P. C..

(2) Letter no H 37, dated 7th October 1938 from the P. P., Bangalore enquiry in the matter.

Order

Order No P1892/6

In ~~modification of~~ Continuation of the Govt Order read above Sanction of Govt is accorded under Section 197 Cr.P.C. to place charge sheets against Mr. C. Venkatesiah Setty, Stock holder, Medical Stores, Bangalore, under Sections ~~409, 477(a), 109 and 511~~ for I.P.C., and such other offences as the accused may be found to have committed.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

Read :—

Government Order No. P.1510-3/Law44-38-2, dated 16th September 1938 according sanction under section 197 Criminal Procedure Code to prosecute Mr. C. Venkatesiah Setty, Stock-holder, Government Medical Stores, Bangalore for offences under Sections 409, 477 (a), 109 and 511 Indian Penal Code.

2. Letter No. H.37, dated 7th October 1938 from the Public Prosecutor, Bangalore Division in the matter.

Order No. P 1892-6 L

Dated, Bangalore, 18th October 1938.

In continuation of Government Order read above, sanction of Government is accorded under Section 197 Criminal Procedure Code to place charge sheets against Mr. C. Venkatesiah Setty, Stock-holder, Medical Stores, Bangalore, under Sections 379, 380, 381 and 403 Indian Penal Code also and for such other offences as the accused may be found to have committed.

Additional Secretary to Government.

To

The District Magistrate, Bangalore.
" Inspector General of Police in Mysore.
" Senior Surgeon in Mysore.
" Public Prosecutor, Bangalore.
" Comptroller to the Government of Mysore.

Ms.6

Appendix F G—1]

Immediate

SUBJECT.....

.....

.....

Section Law

File No. 44-38

Serial No.

Diary No. of letter replied to .....

No. P1897

To The

The Senior Surgeon

General and Revenue Secretariat

( )

the *193*

Subject:- Medical Stores Case

Sir,

Date of issue 18/10/38

In continuation of

Signed by Mr. C.S.J.

G.O. No. P1892-6 Law 44-38-6 dt 18.10.38

I am directed to forward

herewith a copy of letter

No. H. 36, dated 7th Oct: 38

from the P.M. B'lore requesting

in regard to the above

for certain records, and

to request you to be good

List of enclosures.....

enough to give all the necessary

help to the P.M., B'lore.

Copied by.....

I have etc.

Examined by.....

No. P1898 dt 18/10/38 for Addl. Secy:

WD 0278—GPB—30,000—4-3-38

Copy to P.M. B'lore.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P 1897 Law 44-38. Dated, Bangalore, 18th October 1938.
Encl

From

The Additional Secretary to the Government of His Highness the Maharaja of Mysore.

To

The Senior Surgeon in Mysore,
Bangalore.

Subject:- Medical Stores case.

Sir,

In continuation of Government Order No. P. 1892-6 Law-44-38-6 dated 18-10-38 I am directed to forward herewith a copy of letter No.H. 36, dated 7th October 1938 from the Public Prosecutor Bangalore requesting for certain records in regard to the above and to request you to be good enough to give all the necessary help to the Public Prosecutor, Bangalore.

I have the honor to be,

Sir,

Your most obedient servant,

Sd. C. Subramanya Iyer,

Additional Secretary to Government.

emo. No. P 1898 Dated, Bangalore, 18th October 1938.

Copy of the above is forwarded to the Public Prosecutor,

By order,

For Additional Secretary to Government.

(18)

MYSORE MEDICAL DEPARTMENT

Rajasevasakta
B. K. NARAYANA RAO, ESQ.,
B.A., M.B.C.M.,
M.R.C.S. (Eng.),
D.P.H., D.O. (Oxon.)

GEN. & REV. SECRETARIAT
21. OCT. 1938

Telephone :—**No. 2462.**
Telegrams :—*Senorgen.*
OFFICE OF THE SENIOR SURGEON IN MYSORE,
Bangalore, dated 20 : 10 : 1938.

~~D.O.~~ No. C 3531-30

~~Exxx~~ From,

The Senior Surgeon in Mysore,
BANGALORE

~~Dear~~ To

The Additional Secretary
to the Government of Mysore,
BANGALORE

BKR

Sir,

With reference to your letter No.P.[illegible] 38, dated the 18th October 1938, I have the honour to state that the available records in respect of the appointment of Stock Holder, Audit Reports, etc., have already been sent to Public Prosecutor. All the help that may be necessary in respect of this case will be given.

perusal
BKR
25-10

I have the honour to be,
Sir,
Your most obedient servant,

B Narayana Rao
20/10

SENIOR SURGEON

Sec
25-10-38

TVD.

19

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION

Bangalore, 8th February 1939.

Law 44 38 5069/6

10. FEB. 1939

FROM

PUBLIC PROSECUTOR,
BANGALORE DIVISION, BANGALORE.

TO

The Additional Secretary to
the Government of His Highness the
Maharaja of Mysore.
Bangalore.

SIR,

Re. Medical Stores Defalcation Case.

I have the honour to state that the first accused in the above case - Venkatesaiyasetty - has this day been committed to take his trial in the Sessions Court Bangalore on charges framed against him under Ss 409 and 477-A. IPC. The second accused Munisamy Naidu has been discharged.

I have the honour to be,
Sir,
your most obedient Servant

S Doraswamy

Public Prosecutor

IMMEDIATE.

In all future communications please quote
No. J1- 1329-39 3/1/28/39
Enc. Two.

Tel. Address.—"DEPCOM"
Post Box No. 34.

OFFICE OF THE DISTRICT MAGISTRATE,
BANGALORE DISTRICT.

Dated, Bangalore, the 30th March *19*39.

Re Cr. A
Mysore Cases
U

FROM

Abdul Aziz Khan, Esq., B.A.,
District Magistrate,
Bangalore District.

To

C. Subramanya Aiyar, Esq., B.A.,B.L.,
Addl. *Secretary,*
to the Government of Mysore.
Bangalore.

SIR,

Subject:— Medical Notes Case.

I enclosing herewith a copy of letter No. 107 of date together with a copy of its enclosure received from the Public Prosecutor, Bangalore Dist. I have the honour to request you to kindly instruct the Government Advocate to file a Revision Petition before the High Court of Mysore under Sections 435 and 439 of the Criminal Procedure Code.

2. I agree with the opinion expressed by the Public Prosecutor in paras 5, 6 and the latter portion of para 7 of his letter adverted to above.

3. I therefore request you to kindly instruct the Government Advocate to file a revision petition tomorrow and intimate the fact to me as the case is posted for hearing on 1-4-1939.

I have the honour to be,
S i r,
Your most obedient servant,

A A Khan

District Magistrate,
Bangalore District.

Letter No.107 dated 30th March 1939 from the Public Prosecutor, Bangalore Division, to the District Magistrate, Bangalore District.

Re. Medical Stores Case.

I have the honour to state that this case was opened on the 27th instant by briefly stating to the Court the case against the accused who had been committed on two charges of criminal breach of trust under 409 I.P.C. and on two counts under Sec. 477 (a) I.P.C. Since there was a likelihood of there being a possible misjoinder of charges and as it was impossibl to prove when and how the quinine was taken and in what quantities, an application was filed to have the cases split up into two cases, one for the two offences under Sec. 409 I.P.C. and one for the two offences under Sec. 477 (A) I.P.C. The learned Judge was pleased to allow the application and also slightly altered the charges as framed.

The charges now framed are for falsification of accounts in respect of a quantity of 50 pounds of quinine not taken into the stock book on or about 7-1-1937 and a further charge in respect of 200 pounds of quinine, the quantities of which has been inflated in entering the totals of issues on or about 13-2-37 so that the corresponding entries in the columns of remaining quantities are reduced obviously to cover up the misappropriation made or to be made.

After this application was granted, the Counsel for the accused moved for a short adjournmen to consider the position and evidently under Sec. 22 Cr.P.C. the learned M Judge adjourned the case till the

28th instant after reading out the charge to the accused, recording his plea of claiming to be tried and after

On the 28th instant, the case proceeded and nine witnesses were examined and cross-examined at length and after numerous exhibits were marked.

At one stage of the case, the Prosecutor sought to put in instances of similar items of falsification in order to prove the guilty knowledge and design on the part of the accused and also to prove that the present acts of falsifications charged formed part of a system and in order to rebut a by anticipatic ox the defence of accident, mistake or other condition of mind

Although in criminal cases, it is not usual to interfere in Revision, this is an eminently fit case for preferring a revision petition because if the point is held otherwise in appeal there will be a considerable amount of expenditure unnecessarily incurred and dislocation of the work of several professional men.

Under the circumstances, especially in view of the decision in 35 Mysore High Court Reports 319, I feel it my duty to solicit instruction in the matter from Government and to respectfully suggest the preferring of a Revision Petition and to permit me in view of these circumstances to move for an adjournment.

Since the matter is of very great importance and urgency, a copy of this letter has been sent to the District officials also, but I respectfully solicit instructions in the matter.

ssions Case No.2 of 1938-39.

IN THE COURT OF THE ASSISTANT SESSIONS JUDGE AT BANGALORE.

Dated the 28th Day of March 1939.

Present:- U.D.Narayana Murthi, Esq.,B.A.,LL.B.,
Assistant Sessions Judge, Bangalore.

Complainant:- ... Government of Mysore.

Vs.

Accused:- C.Venkatesiah Setty.

O r d e r.

The accused in this case stands charged with two alleged acts of falsification of accounts. Besides adducing evidence regarding the above main acts, the learned Public Prosecutor proposes to adduce evidence of certain similar acts alleged to have been done by the Accused. The learned advocate for the Accused has opposed this on the ground that such evidence would not be relevant under Sections 14 and 15 of the Evidence Act. Both sides have relied on the decision of the High Court in 35 MYS.C.C.R. 319 which is equivalent to 8 MYS. L.J.385. In this judgement, reference has been made to the English case in Makin Vs.Attorney General reported in 1894 L.R.A.C. 57 and the principle of that decision has been summarised and stated as follows: "It is undoubtedly not competent for the prosecution to adduce evidence tending to show that the accused has been guilty of criminal acts other than those covered by the indictment, for the purpose of leading to the conclusion that the accused is a person likely from his criminal conduct or character to have committed the offence for which he is being tried." On the other hand, the mere fact that the evidence adduced tends to show the commission of other crimes does not render it inadmissible if it be relevant to an issue beforethe jury, and it may be so relevant if it bears upon the question whether the acts alleged to constitute the crime charged in the indictment were designed or accidental, or to rebut a defence which would otherwise be open to the accused The decision of the Calcutta High Court in 42 Cal. 957 has also been cited and the principle in that case is stated to be that

that evidence of similar facts may be received to prove a party's knowledge of the nature of the main fact or transaction, or his intent with respect thereto. Another decision of the Calcutta High Court in 47 Cal.677 has also been referred in which the Englis case of Rex v. Bond has also been noticed. The following principle stated in another English case Rex v. Thompson has also been enunciated in the High Court judgment viz. that the more detach the previous utterings are, in point of time, the less relation th will bear to the particular uttering stated in the indictment and when they are so distant the only question that can be made is whether they are sufficient to warrant the jury in making any interference from them as to the guilty knowledge of the prisoners but it would not render the evidence inadmissible. It is importa to note however that according to the judgment of the Calcutta Hig Court in 48 Cal.957 to admit evidence under this head the other ac tendered must be of the same specific kind as that in question and not of a different character and the acts tendered must also have roximate in point of time to that in question. It is on these

admissible. According to the editorial note appended to this case "The evidence, however, must be of transactions having such a nexus with the offence charged that it forms part of the evidence by which that offence is proved." Rex V. Hamilton is another very recent decision cited for the Accused reported in 1 A.E.R. (1939) pag 469. Here, the accused was charged with obtaining goods by false pretences i.e. by giving a worthless cheque for that purpose. The previous act sought to be proved was the obtaining by the accused of an overdraft by a certain false representation and such evidence was held inadmissible. This case is very much is favour of the Accused on this point. It shows that the previous acts sought to be proved must be specifically of the same nature as the act charged. It is contended by the learned Public Prosecutor that in 35 MYS.C.C. 319, our High Court has not entirely approved of the principle laid down in the English case on this point viz., that previous acts soug to be proved must be of the same specific nature as the acts charged But, I do not find anything in that judgment to show that the High Court has not approved of that principle. The learned Judges expre a doubt whether there must be that proximity of time in relation to other acts sought to be proved as is referred to in 42 Calcutta 957. But, that does not show that they did not approve of the principle that the acts sought to be proved under Sections 14 and 15 must be of the same specific character as the act charged. The judgement o the High Court in 38 MYS.CC.R.872 has also been cited by the learned Public Prosecutor but there is nothing directly on this point which is discussed there.

3. For the above reasons, I hold that in the present case the prosecution is not entitled to adduce evidence of any similar acts in relation to the acts mentioned in the charge unless such similar act are of the same specific kind as the acts charged.

Dictated to the Steno-Typist and pronounced in Open Court by me on 28-3-1939.

Sd/- U.D.Narayana Murthi,
Assistant Sessions Judge.

IMMEDIATE & STRICTLY CONFIDENTIAL.

6103 - 938 P (27)

No. 105

Enc. .....

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION.

DISTRICT OFFICE BUILDINGS,

Bangalore City, ...30th March.....193

1938 313

FROM

G. S. DORASWAMY IYER, ESQ., B.A., B.L.,
Public Prosecutor,
Bangalore Division, Bangalore City.

To

C. Subramanya Iyer, Esq., B.A., B.L.,
Additional Secretary to the Government of
His Highness the Maharaja of Mysore,
B a n g a l o r e.

SIR,

Re: Medical Stores case.

I have the honour to state that this case was opened on the 27th instant by briefly stating to the court the case against the accused who had been committed on two charges of criminal breach of trust under 409 I.P.C. and on two counts under Section 477(a) I.P.C. Since there was a likelihood of there being a possible misjoinder of charges and as it was impossible to prove when and how the quinine was taken and in what quantities, an application was filed to have the cases split up into two cases, one for the two offences under section 409 I.P.C. and one for the two offences under section 477(A) I.P.C. The Learned Judge was pleased to allow the application and also slightly altered the charges as framed.

The charges now framed are for falsification of accounts in respect of a quantity of 50 pounds of Quinine not taken into the stock book on or about 7-I-37 and a further charge in respect of 200 pounds of Quinine, the quantities of which has been inflated in entering the totals of issues on or about I3-2-37 so that the corresponding entries in the columns of the remaining quantities are reduced obviously to cover up the misappropriations made or to be made.

After this application was granted, the counsel for the accused moved for a short adjournment to consider the position and evidently under section 229 Cr.P.C. the Learned Judge adjourned the case till the 28th instant after reading out the charge to the accused, recording his plea of claiming to be tried and after choosing three assessors.

On the 28th instant the case proceeded and nine witnesses were examined and cross/examined at length and after numerous exhibits were marked.

At one stage of the case the Prosecutor sought to put in instances of similar items of falsification in order to prove the guilty knowledge and design on the part of the accused and also to prove that the present acts of falsifications charged formed part of a system and in order to rebut by anticipation the defence of accident, mistake or other condition of mind.

The falsifications sought to be put in to prove that the accused has been concerned in a systematic course of conductare in the nature of omissions to take into account certain items of reciept, alterations in figures and false entries of issues.

The Learned Judge passed an order that only similar items , that is, exactly of the specific kind will be admissible. A copy of the order will be sent early. It could not be sent earlier as it was dictated in court on the 28th at about 4 p.m. and the transcript was not ready as yesterday happened to be a holiday. The Learned Judge evidently is of opinion that falsification of one kind, namely, an omission is not the same thing as a falsification by alteration or otherwise. Though the Learned Judge has not said so in as many words, I

I think that this is what he meant in the order.

Although in ~~civil~~ Criminal cases it is not usual to interfere in Revision, this is an eminently fit case for preferring a revision petition because if the point is held otherwise in appeal there will be a considerable amount of expenditure unnecessarily incurred and dislocation of the work of several professional men.

Under the circumstances, especially in view of the decision in 35 Mysore High Court Reports 319 ~~I feel it~~ my duty to solicit instruction in the matter from Government and to respectfully suggest the preferring of a Revision petition and to permit me in view of these circumstances to move for an adjournment.

I have the honour to be,
Sir,
Your most obedient servant,

S Doraswamy Gr.

Public Prosecutor,
Bangalore Division.

Since the matter is of very great urgency, although I have addressed the ~~Government~~ District magistrate & the Superintendent of Police I wish immediate orders in this connection to save expenses & trouble to Government.

6264/P

No. 109.

Enc.

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION,
DISTRICT OFFICE BUILDINGS,

8 APR 1939

Dated 7 4 *1939*

FROM

G. S. DORASWAMY IYER, ESQ., B.A., B.L.,
Public Prosecutor,
BANGALORE DIVISION,
BANGALORE CITY.

BXR 8.4.39

TO

The Additional Secretary
to Government of Mysore,
Bangalore city.

SIR,

Reference—

The Medical Stores Case

I have the honour to invite your kind attention to the above case and to state that the arguments were concluded yesterday at 7 P.M. The case is posted to tomorrow for summing up.

I have the honour to be,
Sir,
Your most obedient servant,

G Doraswamy Iyer

Public Prosecutor.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P 5352 Law 44-38. Dated, Bangalore, 6th April 1939

From Additional
The ~~Chief~~ Secretary to the Government of His Highness
the Maharaja of Mysore.

To

The District Magistrate,
Bangalore.

Sir,

Subject:- Medical Stores Case.

With reference to the correspondence ending with your letter No.J_1-1329-39 dated 30th March 1939 on the above subject, I am directed to state that the Government are advised that it is not desirable to file a Revision Petition in connection with a pending Sessions Case and that the matter may be therefore dropped.

I have the honor to be,
Sir,
Your most obedient servant,

For Additional Secretary to
Government.

Appendix F G—1]

Immediate 31

SUBJECT.....

.....

.....

Section Law

File No. 44-38

Serial No.

Diary No. of letter replied to .....

No. P 53552

To The Distt Magt.

B'lore

General and Revenue Secretariat

( )

the *193*

Subject:- Medical Stores Case.

Date of issue 6/4/39

Sir,

Signed by Mr. BKR

With reference to the correspondence ending with your letter no. JL-1329-39, dated 30th March 1939 on the above subject, I am directed to state that the Govt are advised that it is not desireable to file a Revision Petition in connection with a pending Sessions case and that the matter may therefore be dropped.

List of enclosures.....

Copied by .....

Examined by.....

I have the honour

BKR

for Addl Se

WD 0278—GPB—30,000—4-8-38

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 8th April 1939. 193

No. PS372 Law 44-38
Encl. Copies of depositions

From Additional
xxx
The Chief Secretary to the Government of His Highness
the Maharaja of Mysore.

To The Public Prosecutor,
Bangalore.

Sir, Subject.- Medical Stores Case.

I am directed to forward herewith copy of committal order of the City Magistrate, Bangalore in C.C.No.539/38-39 and copies of depositions of Prosecution witnesses 1 to 16 in the same case, which were left by you when you had come for discussion on the above subject.

I have the honor to be,

Sir,

Your most obedient servant

BKR

For Additional Secretary
to Government.

Appendix F G—1]

SUBJECT.....

.....

.....

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193*

Date of issue 8.4.39

Signed by Mr. BKR

List of enclosures..... Subject to approval.

Copied by .....

Examined by.....

Section Law

File No. 44-38

Serial No.

No. PS372/Conf. Copies of depositions.

To The P. P.

B'lore

Subject:- Medical Stores Case

Sir,

I am directed to forward herewith copy of Committal order of the City Magistrate, B'lore in C.C. No. 5'39/38-39 and Copies of depositions of 9 Prosecution witnesses 1 to 16 in the same Case, which were left by you when you had come for discussion on the above subject.

I have etc.,

BKR

for Addl. Secy.

WD 0278—GPB—30,000—4-8-38

34

MYSOORE MEDICAL DEPARTMENT

Immediate.

Telephone **No. 2462.**
Telegrams : Senorgen.

OFFICE OF THE SENIOR SURGEON IN MYSORE,

Bangalore, dated.....8th..April.....*1939*.

No. C3531-163
Encl. One.

L. 5873

FROM

Rajasevasakta

B. K. NARAYANA RAO, Esq. B.A., M.B.C.M., M.R.C.S. (Eng.), D.P.H., D.O. (Oxon.),
Senior Surgeon with the Government of H. H. the Maharaja of Mysore.

SECY. LOCAL SELF GOVT. 10 APR 1939 GOVT OF MYSORE

To

The Secretary to the Government of Mysore,
Local Self Government Department, Bangalore.

Sir,

I have the honour to forward for orders of Government a copy of letter dated 31-3-1939 received from the Public Prosecutor, Bangalore Division, Bangalore with regard to Medical Stores case.

I have the honour to be,
Sir,
Your most obedient servant,

B Narayana Rao
Senior Surgeon. 8/4

6284/P 5874

34

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent rec

Solicitor. This is a matter for the Law Section in Patents Branch. If approved the paper will be transferred to Patents Br

10.4.39

The matter has been already disposed of on a reference from the D.M.

11.4.

Letter dated 31-3-1939, from the Public Prosecutor, Bangalore Division, Bangalore, to the Senior Surgeon in Mysore, Bangalore.

Medical Stores case.

I have the honour to state that this case was opened on the 27th instant by briefly stating to the Court the case against the accused who had been committed on two charges of Criminal breach of trust under Section 409 of the I.P.C. and on two counts under section 477 of the I.P.C. Since there was a likelihood of there being a possible misjoinder of charges and as it was impossible to prove when and how the quinine was taken and in what quantities An application was filed to have the cases split up into two cases one for the two offences, under Section 409 I.P.C. and one for the two offences under Section 477 A, I.P.C. The learned Judge was pleased to allow the application and also slightly altered the charges as framed.

The charges now framed are for falsification of accounts in respect of a quantity of 50 lbs of quinine not taken into the stoc book on or about 7-1-1937 and a further charge in respect of 200 lbs of quinine the quantity of which has been inflated in entering the total of issues on or about 13-2-1937 so that the correspondin entries in the columns of the remaining quantities are reduced obviously to cover up the mis-appropriations made or to be made.

After this application was granted, the Counsel for the accused moved for a short adjournment to consider the position and evidently under Section 229 of the Criminal Procedure Code, the learned Judge adjourned the case till the 28th instant after reading out the charge to the accused, recording his plea of claiming to be filed and after choosing three Assessors.

On the 28th instant the case proceeded and nine witnesses were examined and cross-examined at length and after numerous exhibits were marked.

At one stage of the case the Prosecution sought to put in, instance of similar items of falsifications in order to prove the guilty knowledge and design on the part of the accused and also to prove that the present acts of falsifications charged formed part of a system and in order to rebut by anticipation the defence of

defence of accident, mistake, or other condition of mind.

The falsifications sought to be put in, to prove tha accused has been concerned in a systematic course of cond are in the nature of omissions to take into account certa items of receipt, alterations, in figures and false entri of issues.

The learned Judge passed an order that only similar items i.e., exactly of the specific kind will be admissible. A copy of the order will be sent early. It could not be sent earlier as it was dictated in Court on the 28th at about 4 P.M. and the transcript was not ready as to-day happened to be a holiday. The learned Judge evidently is of opinion that falsification of one kind viz., an omission is not the same theory as a falsification by alteration or otherwise.

Though the learned Judge has not said so in as many words, I think that this is what he meant in the order, and that is what he said.

Although in criminal cases it is not usual to interfere in revision, this is an eminently fit case for preferring a revision petition because if the point is held otherwise in appeal there will be a considerable amount of expenditure unnecessarily incurred and dislocation of the work of several professional men.

Under the circumstances especially in view of the decision xxf in 35 My. H.C.R. 319, I feel it my duty to solicit instructions, in the mattef from Government and to respectfully suggest the preferring of a Revision petition and to permit me in view of these circumstances to move for an adjournment.

No. P. 24 to 37/ 28-24 6334

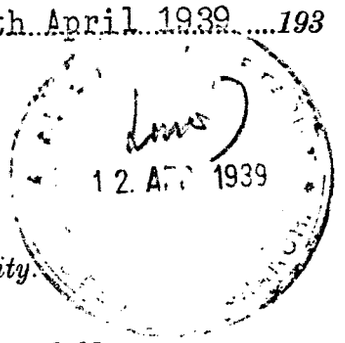
Enc. .....

Cl. 12/4/39

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION.

DISTRICT OFFICE BUILDINGS,

Bangalore City, ...11th April 1939 ....*193*



FROM

G. S. DORASWAMY IYER, Esq., B.A., B.L.,
Public Prosecutor,
Bangalore Division, Bangalore City.

To

The Additional Secretary to the Government of Mysore,
BANGALORE.

SIR,

Re. The Medical Stores Defalcation cases.

The Assistant Sessions Judge who had posted the above case for judgement at 11 A.M. yesterday pronounced it at 4 P.M. - acquitting the accused of the offences of falsification of accounts. I have the honour to state that the cases in respect of the breach of trust in respect of the same items have been posted by him to the 25th proximo.

Bail was moved on behalf of the accused and it was opposed by me under instructions from the City Superintendent of Police, Bangalore City who was throughout with me.

In my opinion this is a fit case for taking up in appeal to the High Court.

A copy of the judgement will be sent as soon as it is received with a report thereon.

I have the honour to be,
Sir,
Your most obedient servant,

Public Prosecutor.
Bangalore Dvn, Bangalore.

for perusal
noting of filing an appeal DKR
- Considered after judgment copy received 12.4.39
Asst Secy)

L.S.G. Secy)
2nd Member
Dewan

Ce 12/4 DKR 12-4 To Hon 12/4 up
Judgment copy rec'd 15.4.39 a.m.
Hon'ble Member Hon 28.4.39
DKR (Secy (Law))

6390/P 38

MYSORE MEDICAL DEPARTMENT

one No. 2462.
ams : Senorgen.

OFFICE OF THE SENIOR SURGEON IN MYSORE,
Bangalore, dated 12th April 1939.

C 3531-111
Cve.

Fm 5982

Rajasevasakta

B. K. NARAYANA RAO, Esq., B.A., M.B.C.M., M.R.C.S. (Eng.), D.P.H., D.O. (Oxon.),
Senior Surgeon with the Government of H. H. the Maharaja of Mysore.

14 APR. 1939

The Secretary to the Government of Mysore,
Local Self Government Department, Bangalore.

In forwarding herewith a copy of letter No.P.29 to 33/38-39
ed the 11th Instant received from the Public Prosecutor,
ngalore, regarding the Medical Stores Defalcation Case,
imating that the accused has been acquitted of the offences
falsification of accounts etc., I have the honour to state that he thinks that it is a fit case for taking up in appeal to the High Court.

Under the circumstances explained I request you kindly to obtain orders of Government whether the Public Prosecutor could be instructed to take the case on appeal.

I have the honour to be,
Sir,
Your most obedient servt
Senior Surge

Acquittal accused in Med Stores Defalcation case ✓ proposal re Appeal

General and Revenue Secretariat | File No. | of 193 | [App. F. III—2

39

Letter No.P.29 to 33/38-39 dated 11-4-1939, from the Public Prosecutor, Bangalore Division, Bangalore, to the Senior Surgeon in Mysore, Bangalore.

Telepl

Telegr.

No.

En.

Fr

Re: The Medical Stores Defalcation Cases.

The Assistant Sessions Judge who had posted the above case for judgement at 11 A.M. yesterday pronounced it at 4 P.M. acquitting the accused of the offences of falsification of accounts, I have the honour to state that the cases in respect of the breach of trust in respect of the same items have been posted by him to the 25th proximo.

Bail was moved on behalf of the accused and it was opposed by me under instructions from the City Superintendent of Police, Bangalore City who was throughout with me.

In my opinion this is a fit case for taking up in appeal to the High Court.

A copy of the judgement will be sent as soon as it is received with a report thereon.

"Copy".

M Kuppuswamy Rao 12/4

Senior Surgeon.

Subd for perusal before transferring the papers to Prosecn Br for further action

14.4.39 (14.4) L.S. q seen)

14/4

WD 0544—GPB—30,000—2-9-83

BCR 14.4

The connected file was submitted to the L. S. G. Secretary in person on 13-4-29 as instructed by the Asst Secy

6441/38-6620

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION,
DISTRICT OFFICE BUILDINGS,

No. 43

Enc. 1

Dated 15. 4. 1939.

FROM

G. S. DORASWAMY IYER, ESQ., B.A., B.L.,
Public Prosecutor,
BANGALORE DIVISION,
BANGALORE CITY.

COUNCIL,
39
.....

TO

The Additional Secretary to
The Government of Mysore
Bangalore

SIR,

Reference— Re Medical Stores adulteration Case

I have the honour to invite your kind attention to the above case and to send a copy of the judgment of the learned Assistant Sessions Judge.

4b) for perusal in the first instance

I have the honour to be,
Sir,
Your most obedient servant,

G S Doraswamy Iyr
Public Prosecutor.

4a) Addl Secy
2nd Member

19.4.39

4b) 20-4-39

IN THE COURT OF THE ASSISTANT SESSIONS JUDGE,

Bangalore.

Dated, Bangalore, 10 th day of April 1 9 3 9.

Present : - U.D. Narayana Murthi, Esqr., B.A., LL.B.,
Assistant Sessions Judge.

Sessions Case NO. 2/1938-39.

Government of Mysore. Prosecutor.

-vs-

C. Venkatesiah. Accused.

Judgment.

The accused in this case was employed in the Government Medical Stores, Bangalore, as Stock-Holder and he is charged with two offences of falsification of accounts under Section 477(A) of the Indian Penal Code, the first alleged to have been committed on or about 7/1/1937 and the second on or about 13/2/1937. The allegation in respect of the first charge is that he falsified the entry mark Exhibit P 14(a) in the stock ledger book Exhibit P 14 by not including therein a quantity of 50 lbs of Quinine Sulphite which had been taken into stock on 2/1/1937. The allegation in respect of the second charge is that he falsified the entry mark Exhibit 14(b) on the next page of the same ledger book by altering the total figure at the bottom of that page from 289 lbs 12 ozs into 489 lbs 12 ozs that is by making the initial figure which was originally 2 into 4.

2. It is practically admitted that the accused was

writing the total figures entered at the botto
of the pages in the above ledger book in ink u
his initials. According to the Accused he ha
written the figures in Exhibits P14(a) and (14(
in ink on the basis of figures already written
in pencil by other clerks and he was only resp

guarding against wastage and loss. He also says that the accused was the stock holder during the period of his office in the Medical Stores (there is no dispute on this point). He says however that the accused was responsible for all the stock and that everything was in his charge. According to his evidence even on 26/5/1936 when he checked the stock of quinine sulphite for the first time which was more than seven months before the time mentioned in the charges in the present case the actual stock found in the stores of quinine suphite was less than the quantity noted in the ledger book as per Exhibit P1(b). The witness says that he has noted the words " to be counted" on that date against the above entry. This was just before the witness took charge as Superintendent of the Medical Stores and Dr. Chokkam Iyengar PW-12 was then actually in charge of the stores as Superintendent. Dr. Hiriyanna admits that it was the Ledger clerk who was writing the entries in the ledger books and not the accused. He says that the accused has initialled at the foot of column (6) on each page of the ledger book Exhibit P1. According to this witness the accused has to see whether the balance agrees with the actual stock on hand (apparently whether the balance entered in the ledger agrees with the actual stock on hand) and it is for this purpose that he initials as above. He also says that the accused has written the figures for the closing balance on each day and the ~~XXXXX~~ the opening balance on each day in column of the ledger books, as for instance at the top of the 6 column of page 188 of the ledger book Exhibit P(14) when

initialled for another entry lower down on the same page for the receipt of a very large quantity of quinine namely 3500 lbs on 5/10/1936. The above large quantity of quinine had been received in the stores according to the evidence of this witness as early as 17/9/1936. This date also noted against the above entry. Nevertheless the above receipt has been entered in the ledger book after a considerable delay amounting to about 18 days. This shows that the entries in the ledger book did not always correctly represent the actual quantities existing in the stores.

3. The really important page in the ledger book however relates to the two charges against the accused in the present case is page 189 of the ledger book Exhibit P14. The top of this page is torn off to considerable extent and some entries at the top are therefore not fully visible. The prosecution has not adduced any evidence to show who was actually responsible for the tearing of this page at the top though it is apparently suggested that the accused had something to do with it. Dr. Hiriyanniah however, makes a very important admission regarding this point namely that when he saw the above page during the period of his office the top of it was not torn. He was in charge of the

He was in charge of the Medical stores until 15/5/1937 that is, for about two or three months after the dates mentioned in the two charges. If he did not notice the tearing of the page during his term of office it becomes extremely probable that the page must have been torn after he handed over charge that is, long after the dates mentioned in the charges against the accused.

4. This witness has further deposed that there was a receipt of 50 lbs of quinine on 2/1/1937 and this is entered on the above page against the date 2/1/1937 and initialled by the witness. The important point to be noted is that this quantity of 50 lbs received on 2/1/37 has not been included in arriving at the total entry at the foot of that page in the column showing the balance of stock or column 6. The witness says that this quantity of 50 lb was received by him and it was with the accused. He says the entires in pencil in the sixth column in this page were written by the accused. If those pencil figures are correct then a calculation will show that the above quantity of 50 lbs received on 2/1/37 has not been included in the total of 2802 lbs and 5 ozs mentioned at the bottom of column (6) on that page. The witness says that it is the accused who has put the pencil figures against the voucher number E. 965 on that page. There is also an app arent alteration with regard to the figure (8) in the total of 2802 lbs and 5 ozs mentioned at the bottom of colum (6) on that page. The accused has initialled that balance. Dr. Ramakrishna Rao PW-30 who was the superintendent of the Stores from 16/5/37 has deposed that the above initials are those of the accused.

ccording to his evidence the stock Holder that is
he accused was expected to check the totals and to
ee that the entries were correctly made in the
edger and it was for this purpose that he was
nitialling at the foot of the pages in the ledg

. It is however important to note that according
o the evidence of Dr. Ramakrishna Rao the ledger

regarding receipts and that the Head Clerk was expected to check the ledger with the indents received to see whether the issues were correctly posted. The witness says that the above officials were doing the above work to his knowledge. The corrections in the figures noted above in the case of the totals written by the accused in the ledgers no doubt appear suspicious at first sight but Dr. Ramakrishna Rao has de deposed that the accused has corrected the figures in the ledgers by putting the correct figures in place of the incorrect figures. This important admission by such a responsible officer is very favourable to the contention of the accused namely that he was merely checking arithmetically the correctness of the figures put by the ledger keepers and that he was merely writing in ink the correct figures on the basis of pencil figures written by the other clerks which might possibly have been wrong arithmetically. The above admission of PW 12 is also against the supposition that the accused corrected any figures fraudulently or with a dishonest intention.

6. It has been contended for the prosecution that both the errors in the accounts which form the subject matter of the two charges against the accused are calculated to profit the accused and that therefore they cannot be accidental or due to inadvertance but that they must have been committed with a fraudulent intention by the accused; but it is significant in this connection that Dr. Ramakrishna Rao admits in his evidence that when he checked the stock of quinine supphi

sulphite on 9/6/37 there was an excess of 10 lbs and 12 ozs in actual stock as compared with the figure in the ledger on that date. This shows that sometimes errors were committed in the entries in the ledger which could not be profitable to the accused. This negatives to some extent the supposition that the accused must have deliberately entered false figures

aused by increasing the quantity shown as
e. If there is a falsification in respect of
o items the method of falsification in each case
herefore different. As already stated in my order
ed in this case on 26/3/39 other instances of
ification of accounts by the accused will only be
vant if such falsifications are of the same specific
re as the falsification alleged in the present
gen and evidence relating to the alleged falsifi-
on by a method different from the method em-
ployed in the case of the present two charges has
erefore been ruled out. The entry Exhibit P1 (a)
the ledger Exhibit P1 dated 9/4/36 has been sought
be made use of as against the accused. According
to the evidence of Dr. Govindaswamy PW/1 he checked the
quantity of quinine sulphide in the stores on that
date of reference to the ledger Exhibit P1 and he
entered the figure there and initialled the same as per
Exhibit P1(a). This apparently means that he found
the actual quantity to be 1949 lbs as noted there.
The accused has apparently noted the quantity 1968
lbs 8 ozs as the opening balance on that date under
his initials. There is also an issue of 18 lbs 12 ozs
noted on the same date. If this quantity is diducted out
of the quantity noted by the accused the balance will
be 1949 lbs and a few ounces. This does not show
any serious discrepancy in the accounts and this entry
is not therefore very significant even if it is relevent.
This witness is unable to say whether the entry showing
the issue of 18 lbs and 12 ozs had been
writing there or not when he entered the above note as per

the figure 1949 the figures 1 9 are thicker than th
ther figures and this also visible to any one. The
figures 19 in this entry seem to have been inserted
fter correction or some other figures noted earlier
ven if we are to suppose that there was an actual
eficit of 12 ozs of quinine sulphite on the above date
compared with the figures entered by the accused ~~XXX~~
~~XXX~~ this does not necessarily show that it was the
ccused who was responsible for the entry of the
incorrect figure. Further this would be an instance
showing a larger quantity of stock in the balance
olumn of the ledger and this is an error of a nature
hich is different from the error found in Exhibit P14(
in which the quantity of stock entered is less than the
ctual quantity which ought to be there and the error i
Exhibit P1(a) is also different in nature from the
rror contained in Exhibit P14(b) (as alleged which

(as alleged which has increased the quantity issued in the issue column. Under these circumstances the entries marked as Exhibits P1(a) and P2(a) would not be relevant at all.

8. Dr. Hiriyanniah also says that he was checking the stock after he took charge as soon as possible and that he used to have a surprise checking sometimes and that this would be noted in the stock book. If the accused had really entered incorrect figures in th two instances forming the subject matter of the charge against him with a fraudulent intention it is not at a likely that Dr. Hiriyanniah would not have found it ou in course of his checking as above. According to Dr. Ramakrishna Rao nothing suspicious was noticed regardi the entries in the above ledger book until 29/6/38. This also is in favour of the view that the accused could not have been tampering the accounts fraudulentl in January and February 1937. P.W. 28 is now the accountant in the stores and he was previously the led keeper. He says that nearly a year ago he had seen the entries Exhibits P14(a) and P14(b) that is before the Exhibits P14(a) and P1 4(b) that is before the complaint was made in the present case and that he did not notice them whether there were corrections in those entries. He speaks to the handwriting of the accused in the above entries. The evidence of this witness shows that he could not have notived anything suspiciou or unusual when he saw the entries made by the accused in Exhibits P14(a) and P14(b) a year ago. This witnes admits that he has put up the daily balances in the

balances in the ledgers when he was writing them. This shows that the accused was not putting up the daily balances in the ledgers himself and that he was checking those balances arithmetically and correcting them if he found them to be arithmetically wrong. It is further confirmed by what the witness says in his reexamination namely that on page 187 of Exhibit P1 in the last column the balances have been struck in pencil by the witness and that the figures in ink are those of the accused. This is exactly what the accused has stated on this point when he was examined by the court. In this case the evidence this witness proves therefore the contention of the ac

h the Sub Assistant Surgeon. It does not make exclusively responsible and after all this matter no direct bearing on the question as to whether accused was responsible for arrears in figures ered in Exhibit P14(a) and P14(b). It is itted that the stock holder that is the second accused furnished a security to the extent of Rs: 5000/0/0 discharging his duties satisfactorily. It is arent that the above security has been obtained from because a large amount of valuable stock passes ough his hands and will be in his custody during tain periods. This does not show however that the used was responsible for entering the correct quantities of stock in the ledgers which is quite a different matter.

10. Dr. Brahman was the Sub Assistant Surgeon in the Medical Stores from September 1936 till May 1938(PW 23). He has clearly stated that the balances of stock in the ledger were being written by the ledger clerks and not by the accused. He says the ledger clerks were working under the witness. This witness has clearly admitted that he was dictating the entries to the ledger keepers. This shows that the accused cannot be held responsible for any errors in the entries relating to the issue or receipt of stock in the ledgers. This witness also admits that when the stores were removed to the present building from the previous building he was sending the stock from the old building. This shows that the accused could not have been principally responsible for the custody of the stock PW 22 another

another Sub Assistant Surgeon who was in charge of the stores in 1936 has also stated that the Superintendon of the stores was in charge of the stock in the stores including quinine sulphate This witness has also stated that the accused who was the stock holder was sending the articles indented for to the packing section from the stores This gives us a clear idea of what the duties of the accused were in the stores. The witness also says that the Stock Kép Holder had a separate room where the drugs were stocked and from there he used to send the articles to the packing section and that the accused was in charge of that separate room where the drugs were stocked. This witness also admits that it wasthe Superintendent who had the keys of the stores and the seal also with him and that all the goods were being received and issued under the supervision of the superintendent.
witness makes a definite admission that no article could go out of the stores without the knowledge of the superintendent. It will therefore be seen that it was not possible to the accused to profit himself by removing any of the stock clandestinely and to profit himself in that way after tampering with the accounts. PW 24 is the Head Clerk of the stores. He says the articles were all in the custody of the accused but he also admits that the stock books were being entered by the ledger clerks. PW 26 is the ledger clerk of the stores. He says that he was entering the ledgers like exhibit P1

confined
accused was entered to the opening and closing balances only so far as the entries in the ledger were concerned. This ~~AWAHHHH~~ witness makes the further admission that he was putting up the daily balances in the ledgers. This makes the further point clear namely that the accused was basing the balances entered by him on the balances put up by the ledger keepers or the ledger clerks. The witness also says that the ledger books used to be in the packing section and that they were being written there. This shows that it was not the accused who was in charge of the writing of the ledgers and that he was also not the person who had the custody of the ledgers directly. The witness also makes it clear that he was putting up the daily balances in the ledger in pencil as stated by the accused. There cannot be absolutely any doubt that the version given by the accused on this point is correct, namely that the ledger clerks were putting up the daily balances in the ledgers in pencil and that the accused was writing the balances in it on the basis of the above pencil figures put up by the ledger clerks after making any corrections that the accused found to be necessary to make the total arithematically correct. In other words the accused was checking the arithemetical correctness of the totals in the ledgers and he was not responsible for the correctness of any entry of issue or receipt in the ledgers.

11. PW 27 is a Government Auditor who audited the accounts relating to the stores subsequent to the

subsequent to the complaint relating to this cas
He nearly says that he has made green pencil mar
in the books and that there were audits every ye
of the accounts of the Stores. It is important
note that this witness does not say anything to
the entries relating to the charges in the prose
contained any arrears or any falsifications.
A another ledger clerk of the stores and he has stated
that the balances in the sixth column in ink in the

entries in question. It is also not disclosed in the evidence for the prosecution that any enquiry was made by the authorities of the Stores as to who was responsibl for the tearing of the above page or what the result was of any such enquiry. In any case there is no reliable evidence to connect the accused with the tearing of the above page. This witness also states that he was making the entries in the ledger book according to the dictation of either the Sub Assistant Surgeon or the Stock Holder o both. This witness has added that if the stock Holder dictated the witness used to write down and that after th the Sub Assistant surgeon would repeat the same. It is at all likely that the Sub Assistant surgeon would repeat what had already been written by the ledger clerk to the dictation of the Stock Holder. It seems to me that this witness has attempted to make the accused responsible for the dictation without any foundation for the same in fact It is significant that no other witness has corroborated this witness on this point and that the Sub Assistant Surgeon has also not corroborated him regarding this. T witness seems to have given false evidence on this point. It is also not at all likely that the accused and the Sub Assistant surgeon would both be dictating the entries to l written in the ledger. This witness stated in cross-Examination that he gave his statement to the Police at B a n g a l o r e and that the police Inspector PW- 32 took the statement of the witness. It was admitted however by th learned Prosecutor as noted in the proceedings on 6/4/39 tha the above witness was not examined by the police at all in

in Bangalore City as deposed to by him. There can
doubt therefore that this witness has perjured him
The witness also stated that he does not know whet
is any rule to the effect that the ledger entries
entered to the dictation of the Stock Holder but h
before the learned Committing Magistrate as per Ex
that the Senior Surgeon's Orders were that the ent
be made in the ledger as things were packed and as
dictated by the Sub Assistant Surgeon or the stock
The Senior Surgeon's Orders however are contained
Exhibit D10 and there is nothing in them to show t
the stock Holder was required to dictate the entri
It may also be noted that according to the evidenc
this witness given in the committing court it was
ub Assistant surgeon or the stock Holder who had
e entries. He has improved on this allegation
his court by saying that the Sub Assistant surge
e Stock Holder were both dictating the entries.
itness has clearly prevaricated and his evidence
he case for the prosecution to a considerable ex
e may also note that according to the orders of
enior surgeon as per Exhibit D(10) the stock Hol
equired to enter in the stock Register items of
eceipts (item 8 in the order). The evidence in
iscloses however that the stock Holder was not e
eceipts in the stock register. The above witness
mitted that the pencil figures of the daily tot
written by the witness or one Sundara Rao and
at the Stock Holder used to do the arithemetica
his confirms the version of the A c c u s e d.

12. It is significant that though Mr.Miriyanahi was shown the entry Exhibit 114(a) in the witness box and though he stated that he noticed that some figure had been written first and later altered in that entry he has not said anything to show that the Accused was responsible in any dishonest manner for the correction of the figure in that entry. Nor has he said anything to show that the Accused was responsible and not any other official for the non-inclusion of the 50 lbs of quinine left out in that total. Even with regard to the other entry in question namely - Exhibit 114(b) he says he does not notice anything particular in that closing balance. There is nothing in the evidence of this important witness who was directly in charge of the stores during the period covered by charges and who was the immediate superior of the Accused at that time to show that the Accused was the person responsible for any improper alterations in the above two entries. If the Accused was really responsible for improper alterations in the above 2 entries this witness ought to have been able to speak to that fact. He has not done so. This is very much in favour of the Accused. This witness also says that he does not remember whether the ledger keepers were entering figures in pencil in the 6th column after nothing each issue or receipt. This shows

ows that it is quite possible that the ledger
ospers were entering the figures in pencil as
ove, so the Accused would not be responsible
e non-inclusion of any item or receipt in the
otal. This witness had stated that the ledger
ospers were also maintaining the totals at the
d of each page but this statement does not see
be correct. He says however that the total we
rrectly checked by the Stock-Holder. This also
kes it very unlikely that the Accused deliber
tored incorrect totals. The witness says he we
scrutinising this checking by the Stock-Holder
'regularities were brought to his notice and he
t remember whether he found any irregularity d
e period of his office. He says he might or mi
t have scrutinised the entries on page 189 in
hibit P14 or the entries on page 190. He defin
ys however that he did not notice any omissio
irregularities in the entries relating to Quinin
does not remember whether the alteration as per
hibit P14(a) was there during the period of his
fice and he does not also remember the condition
the entry Exhibit P14(b) at that time. The witne
at the 50 Lbs of Quinine though not included in
e total was taken into stock. It makes it very
probable that the Accused could have had any

keepers were entering the entries to the dictation of the Sub-Assistant Surgeon and that this was being done in the packing section. If the Accused was also dictating the entries this witness would certainly have said so. He also says that the Sub-Assistant Surgeon was the head of the packing section. The above circumstances clearly show that the Accused could not have clearly show that the Accused could not have dictated the entries and that he was probably not being present at all when the entries were dictated and written by the ledger keepers. This witness admits that he was responsible for the receipt and issue of stock, and that the Stock-Holder aonly assisted him in this respect. He admits that the keys and seals of the Stores were always in his possession and he was personally bringing them and opening and closingthe stores and sealing the same. This evidence would goto show that the Accused could not have removed anystock from the Stores dishonestly, If so he could not have had any motive for falsifying the accounts. The witness says that no removal of my large quantity of goods was brought to his notice during his period of office. This witness definitely says that during his period of his office he checked the stock of Quinine with the book balances more than once and that so far as he remembers he did not make any notice in the stock book or the order book because he did not find any irregularity. This evidence of Dr.Hiriyanniah makes it highly

highly improbable that the Accused could have dishonestly falsified the entries in the accounts as alleged by the prosecution.

of issue above the entry dated 8-1-1937 because a correct superposition of page 190 on the previous page 188 will show that no space is left below the printed headings at the top of the page to write any such entry. It is pointed out for the defence however that this would not at all be a conclusive test. Though it is very improbable that another entry could have found a place above the entry dated 8-1-1937 on page 190 of Exhibit P14 it is not possible for us to conclude that it would have been absolutely impossible to write any such entry. Further though P.W.23 the Sub-Assistant Surgeon has deposed that the invoices for issue of stock from 3-12-1936 to 11-1-1937 are contained in the Invoice Books Exhibits P52, P53 and P4, no particular invoice has been pointed out as mentioning the above quantity of 12½ Lbs sent to Sivasamudram on 8-1-1937. P.W.2 has deposed no doubt that that particular invoice is Exhibit P4(a) but by reference to Exhibit P4(a) it is not possible to make that 12½ lbs. of quinine were sent on 8-1-1937. It is also admitted in the evidence for the prosecution that some times stock was issued from the Stores without idents or invoices and merely in response to letters, telegrams and even oral requests so that it is quite possible that an issue of stock might have been made which was entered at the top of page 190 in Exhibit P14 which was not mentioned in any invoice or

or ident. P.W.23 admits that there have bee
instances of idents not being entered in th
ledgers. It is therefore not possible to
infer from the evidence adduced for the
prosecution with any certainity that no th
ntry except an entry of issue of 108 lbs.
quinine could have been contained in the pc
f page 190 of Exhibit P14 which has been

15. P.Ws.14 to 21 have merely given evidence about the quantities of Quinine that they indented for and that they were supplied to them regarding which the entries on the page 189 in the ledger book Exhibit P(1) have been entirely or partially torn. The bottom of this page has been torn out to a considerable extent. These entries have nothing to do with the entries relating to the present charges against the Accused. They relate to a period about 6 months earlier. I do not think that they are relevant at all and even if they are relevant they do not show anything with regard to the responsibility of the Accused for the entries mentioned in the charges.

16. P.W.2 was the Superintendent of the Stores in 1933 and the Accused was the Stock Holder also at that time. This witness has deposed that the Accused was physically keeping the stock with him. He says that st being issued by the Stock-Holder on the of the Superintendent. This witness doe remember exactly who was totalling the quantities in the closing balances but that it was duty of the Stock-Holder to He has also added that the ledger clerk entering these totals sometimes and the times the Stock-Holder was doing it. It or less the same version on that given Accused. The witness says because the S Holder was responsible for the Stock h verify the balances and initial them

speaks about an explanation being re

[illegible] the Accused with regard to the destruction of some medicines in the Stores and the Accused have given his explanation [illegible] Exhibits P15,16 I do not think this has anything to do with the present charges against the Accused. It is not at all relevent. The accused has admitted in his explanatio Exhibit P17 that he was held responsible for all the stock in the Stores the value whereof on any day wo up to several thousands of rupees. but the Accused points out in the same explanation certain in onveniences existing in the Stores which according o him prevented perfect care being taken of the MKK Stores. Exhibit P12 relates to an order of 935 and is not relevant. The above exhibits might nly be relevant to prove the handwriting of the ccused on which point there is pratically no dispute r.Naroth says that he inspected the Stores on many ccasions and Exhibit P 20 is the list prepared by hi in 1933 in connection with certain inspections. Exhibit P 25 is the report submitted by P.W.9 to the Senior Surgeon regarding certain differences noticed in the sinspection of Dr.Naronna. in this report certain defects noticed have been said to b unavoidable owing to the existing conditions in the stores. The Senior Surgeon has inspected the Stores in December 1937 and Exhibit P 66 is the Inspection Report signed by him. He does not seem to have noticed any material irregularities. As per Exhibit P30(o) the Senor Surgeon found that th

book of the Stores in 1933 that he found everything in order. In Exhibit 180(b) also the same remarks are made. But it is noted there that the ledgers are filled in after the indents are supplied and this leads to complications that directions given by him to the effect that entry into ledgers should be effected as soon as an article is received or issued to the packing section. This was in 1936. At the end of 1935 the Senior Surgeon has again noted on per Exhibit 180(c) that the ledgers were posted up to date. In December 1936 also the Senior Surgeon has noted as per Exhibit 180(b) that he found everything in order and even in December 1937 he has noted as per Exhibit 180(c) that the records and Registers were kept quite up-to-date.

17. P.W.33 is the Government Auditor who audited the accounts of the Stores in 1931. Exhibit P.60 is his report. There is nothing relevant in this. P.W.34 is the Accountant who audited the Stores for the period between 1933 to 1935 and Exhibit P69 in his report. This also relates to a period much anterior to the period with which we are concerned. P.W.35 is the Auditor who has audited the accounts for the period between July 1935 and December 1936 and even that only for a portion of that period. Exhibit P71 in the report jointly prepared by him with an other auditor. He says he noticed several objectionable items but he does not know

of those. He says that in all the audit repor
there is a mention of previous objections not
being remedied. Even if that is so it is not
shown how all this is relevant.

18. The Judgment of the High Court in 32
Mysore High Court Reports Para 272 has been c
for the prosecution to show that even if the
tention with which false entries were made by
Accused was to conceal a fraudulent dishonest
previously committed, the intention will be
lefraud within the purview of Section 477 of
Indian Penal Code. In the present case howeve
it is not shown in the first place that the a
two entries namely Exhibits P14(a) and P14(b)
leliberately and wilfully falsified by the Ac
and secondly it is not shown that such falsif
if any, was to conceal any fraudulent and dis
act previously committed. The above authority

18. P.W.11 was the Superintendent of the Stores between 1929 and 1933. This witness has clearly deposed that because the Stock-Holder was responsible for arithmetical corrections of the balances he was initialing them. This is in favour of the version given by them Accused. Exhibit P45 is the Stock verification report prepared by him. This relates to the year 1931 and is not relevant. This witness admits that he has a report that he could not fix the responsibility for the discrepancies found by him on one. He says there was no order of the Government or the Senior Surgeon during his period of office to the effect that the Stock-Holder was responsible for the stock. He has not seen anything in writing to show that the Stock-Holder was responsible for the stock. This evidence would therefore go to show that it was not the Stock-Holder who was responsible for the Stock. P.W.12 was the next Superintendent of the Stores. He has deposed that the ledger clerks were making the entries(apparently in the Ledgers) only under the Stock-Holder's directions. This is not corroborated by any other Superintendent or any other responsible officer. Exhibit P48 is the stock verification report signed by this witness, and Exhibit P50 is a similar report. These relates to a period much anterior to that now in question are not relevant. Exhibit P19 is the copy of the audit report relating to the

the years 1932 and 1933. This is also not relevant. This witness has also admitted t it was the ledger clerk who was putting th totals in the ledger books and that Stock Holder was checking them arithemetically. He also says definitely that the ledger cl was putting the balances in column(6) in t ledger in pencil. This is exactly the vers of the Accused This witness admits that Exhibit D(1) was written by Srinivasa Rao Ledger Clerk who was officiating. The wit also seems to have signed this. It is sta therein that there are certain variations ween the book balances and the actual sto that the differences in all the items is reconcible if subsequent issues are taken consideration. Exhibit [illegible] only a cop Exhibit P30(b) already noticed. Exhibit D a letter sent by the witness to the Senio Surgeon and written by the Record Head Cl in which it is mentioned that the ledgers not brought up to date and that the book [illegible] not struck in all the [illegible]

represented in that complaint that articles were lost to some extent. According to him it was a case of house-breaking which required thorough investigation. So far as this case is concerned the above complaint of theft is practically not relevant. We have nothing to show that it was a false complaint. Dr. Ramakrishna Rao has deposed that it was he who prepared the draft of Exhibit P60 and that he asked the Head Clerk to type it and get the signature of the Accused. Dr. Ramakrishna Rao also says that he found that the ventilator had been lifted up and that a wire-gauge had been cut open and that the things inside the store room had been scattered. If Dr. Ramakrishna Rao had entertained any doubt about the allegations of the Accused with regard to the house-breaking he would have certainly said so.

20. Considering the whole of the evidence and all the circumstances discussed above - I am of opinion that there is no satisfactory evidence to show that the Accused wilfully or deliberately introduced any errors in the entries Exhibits P14(a) or P.14(b) with a - fraudulent intention. The two offences with which he is charged have not been satisfactorily proved. I doubt the fact that in the case of the entry Exhibit P14(a) there is a significant non-inclusion of 20 Lbs of Quinine entered in the ledger and the fact that in the case of the entry Exhibit P14(b) the figure(s) has been apparently altered in substitution for some other figure which raises suspicion

against the Accused but it is a well established principle under the criminal law as administered in our courts that a person cannot be convicted on mere suspicion. Beyond suspicion there is no ~~circumstantial~~ satisfactory proof of the guilt of the Accused. All the three assessors have given their opinion that the Accused is not guilty. For the reasons already stated I also find that the Accused is not guilty of either of the offences with which he is charged under Section 377 A of the Indian Penal Code. He is acquitted.

6523 ✓ 6524 P 83

Office of the Public Prosecutor,
Bangalore Division,
Bangalore Dated, 19th April 1939.

From

G.S. DORASWAMY IYER, ESQ., B.A., B.L.,
Public Prosecutor,
Bangalore Division,
Bangalore.

BNR 20.4

To

C.S. Subramanya Aiyer, Esq., B.A., B.L.,
Additional Secretary to the Government
of Mysore,
BANGALORE.

Sir,

Ref :- The Medical Stores Defalcation. cases.

I have the honour to submit that in thi the resume and records were returned with your letter No. P. 5377/Law 44-38 on the 8th instant.

I have the honour to submit that there were counts under Sections 409 & 477 A. in respect of which t accused was committed to the Sessions by the learned City Magistrate i.e. one in respect of the omission to take into account the receipt of 50 lbs. of Quinine on or about 2-1-37 and committing breach of trust in respect of the same, and another charge in respect of the omission to take into accoun a stock of 200 lbs. by falsifing the closing balance on a page by altering 289-12-0 into 489-12-0 and committing breach of trust in respect of the same.

At one stage of the trial it was submitted that the matter was so important and urgent as to take up the case in revision against an interlocutory order of the learned Assistant Sessions Judge.

At the trial as there was a possibility of a misjoinder of charges an application was filed (a copy of which is annexed herewith) praying inter alia that the charges under Section 477 A. only be proceeded with.

The learned Judge proceeded with the trial in respect of the charges under Section 477 A.

The cases in respect of the charges under Section 409 are reserved and has been posted to the 25th instant for trial.

The evidence in all the cases are identical.

The learned Judge has acquitted the accused upo the same evidence.

Although a suggestion was preferred, the learned Judge decided to keep the cases in respect of Section 409 on his own file.

These sets of cases in respect of Section 409 are not even as strong as the cases in respect of which the accused has been acquitted and upon the same evidence in respect of the charges under Section 477 A. & by the same Judge. my opinion the cases in respect of Section 477 A. i.e. B.S.(38-39 is a fit case to be taken up in Appeal. If the Government were to be pleased to agree with my respectful suggestion of preferring an appeal, it will be needless to proceed with the cases under Section 409 I.P.C. posted to the 25th instant.

As there may be considerable expenditure incurred and inconvenience caused to several officials of Government if the case in respect of the offences under Section 409 I.P.C. I suggest that an appeal be filed early or instructions be given to move now alone for an adjournment-especially as the summons have all been served on the witnesses-and assessor

In the Court of the City Magistrate, Bangalore City.

C. C. No. of 1938 - 39.

Government - :(Vs):- Venkateshiah setty & another.

Under Section 173 of the Code of Criminal Procedure the complainant states and prays as follows:-

1. In this case a charge sheet has been placed in accordance with law against the accused - persons for offences under Section 409 and 477 A and 109 I.P.C.

2. As the charge sheet may not give all the - particulars needed for the accused to fully and adequately meet the allegations made against them the annexed two supplementary charge sheets giving more details and particulars are filed herewith in respect of the same matter.

3. It is intended to treat the charge sheet already presented as being in respect of two - offences Viz, one relating to 50 lbs of Quinine mis-appropriated between 2-1-37 and 7-1-37 and for falsification of the accounts in the books on - 7-1-37 and another for relating to the remaining quantity of Quinine mis-appropriated between

7-1-37 and 13-2-1937 and for falsificati
of the entries on 13-2-1937.

The complainant respectfully prays that the annexed charge-sheets be treated as supplementary to the one filed so that no prejudice will be caused to the accused.

A copy of this has been served on the learned

6523/38

Office of the Public Prosecutor,
Bangalore Division,
Bangalore, Dated, 19th April 39.

From

G.S.Doraswamy Iyer, Esq., B.A., B.L.,
Public Prosecutor,
Bangalore Division,
Bangalore.

To

P.H. KRISHNA RAO, ESQ., M.A.,
Secretary to the Government of Mysore
Local Self Government Dept.
BANGALORE.

Sir,

Ref :- The Medical Stores Defalcation Cases.

I have the honour to submit herewith a copy of letter addressed to the Additional Secretary to Government regarding the above cases, for favour of information & respectfully instructions in the matter.

I have the honour to be,
Sir,
Your most obedient servant,

G S Doraswamy Iyer
Public Prosecutor,
Bangalore Division.

May be registered

Law

20/4

MRR
W.4

Office of the Public Prosecutor,
Bangalore Division,
Bangalore Dated, 19th April 1

From

C.S. DORASWAMY IYER, ESQ., B.A., B.L.,
Public Prosecutor,
Bangalore Division,
Bangalore.

To

C.S. Subramanya Aiyer, Esq., B.A., B.L.,
Additional Secretary to the Government
of Mysore,
BANGALORE.

Sir,

Ref :- The Medical Stores Defalcation. cases.

I have the honour to submit that in this case the resume and records were returned with your letter No. P. 5377/Law 44-38 on the 8th instant.

I have the honour to submit that there were counts under Sections 409 & 477 A. in respect of which the accused was committed to the Sessions by the learned City Magistrate i.e. one in respect of the omission to take into account the receipt of 50 lbs. of Quminne on or about 2-1-37 and committing breach of trust in respect of the same, and another charge in respect of the omission to take into account a stock of 200 lbs. by falsifing the closing balance on a page by altering 289-12-0 into 489-12-0 and committing breach of trust in respect of the same.

At one stage of the trial it was submitted that the matter was so important and urgent as to take up the case in revision against an interlocutory order of the learned Assistant Sessions Judge.

At the trial as there was a possibility of a misjoinder of charges an application was filed (a copy of which is annexed herewith) praying inter alia that the charges under Section 477 A. only be proceeded with.

The learned Judge proceeded with the trial in respect of the charges under Section 477 A. only.

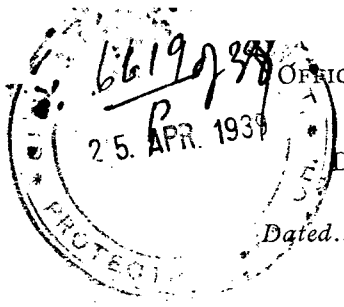
The cases in respect of the charges under Section 409 are reserved and has been posted to the 25th instant for trial.

The evidence in all the cases are identical.

The learned Judge has acquitted the accused upon the same evidence.

Although a suggestion was preferred, the learned Judge decided to keep the cases in respect of Section 409 on his own file.

These sets of cases in respect of Section 409 are not even as strong as the cases in respect of which the accused has been acquitted and upon the same evidence in respect of the charges under Section 477 A. & by the same Judge. In my opinion the cases in respect of Section 477 A. i.e. B.S.C. 2 of 38-39 is a fit case to be taken up in Appeal. If the Government were to be pleased to agree with my respectful suggestion of preferring an appeal, it will be needless to proceed with the cases



No. 147

Enc. One

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION,
DISTRICT OFFICE BUILDINGS,

Dated 22.4.1939

Law 44-38-1(A)

FROM

G. S. DORASWAMY IYER, ESQ., B.A., B.L.,
Public Prosecutor,
BANGALORE DIVISION,
BANGALORE CITY.

TO

The Additional Secretary
to Government of Mysore
Bangalore

SIR,

Reference— The medical stores defalcation case.

I have the honour to invite your kind attention to the above case and to forward a copy of the Judgment of the Assistant Sessions Judge Bangalore

I have the honour to be,
Sir,
Your most obedient servant,

G. S. Doraswamy Iyer

Public Prosecutor.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Bangalore, Dated 27th April *1939*

From

The Additional *Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Public Prosecutor,
Bangalore.

Sir,

Subject.- The Medical Stores Defalcation Case.

With reference to your letter No.121, dated 19th April 1939 on the above subject, I am directed to state that as suggested by you, you may move for an adjournment of the cases under Section 409 Indian Penal Code.

The question of preferring an appeal against the order of acquittal passed by the Additional Sessions Judge, Bangalore in Sessions Case No.2/1938-39 is separately under consideration and orders will issue in due course.

I have the honor to be,
Sir,
Your most obedient servant,

For Additional Secretary
to Government.

Immediate

Appendix F G—1]

SUBJECT.....

.....

.....

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193*

Date of issue 27.4.39

Signed by Mr. S.K.V.

List of enclosures.....

Copied by .....

Examined by .....

Section

File No.

Serial No.

No. P5700.

To The P. P.

Bellary

Subject :- The Medical Store Defalcation Cases.

Sir

With reference to your letter no 121, dated 19th April '39 on the above subject, I am directed to request you to be so good as to obtain an adjournment in the Case under Sec'. 409 I.P.C. which has been posted to 25th May '39 as reported in your Progress Report no. 148, dated 22-4-39.

The next date of hearing may

to work in case as suggested by you. You may move for an adjournment of the case under Sec. 409 I.P.C. The amount of misappropriation and the date of occurrence should be mentioned in the petition for adjournment.

WD 0278—GPB—30,000—4-8-38

Kindly be intimated

I have e

To Addl Secy.

84

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P 5713 Bangalore, Dated 28th April 1939

From

The Additional Secretary to the Government of His Highness the Maharaja of Mysore.

To

The Public Prosecutor,
Bangalore.

Sir,

Subject.- The Medical Stores Defalcation Case Appeal against the order of acquittal.

With reference to your letter No.147, dated 22nd April 1939 and in continuation of this office letter No.P.5700, dated 27th April 1939, I am directed to request you to be so good as to send, for reference, copies of the charge, Judge's Notes, and of all the exhibits and oral evidence.

The matter may kindly be treated as urgent.

I have the honor to be,
Sir,
Your most obedient servant,

For Additional Secretary to
Government.

Appendix F G—1]

Immediate

SUBJECT.....

.....

.....

Section Law

File No.

Serial No.

Diary No. of letter replied to .....

No. P 5713

To The P P.

Bilaspur

General and Revenue Secretariat

( )

the *193*

Date of issue 28.4.39

Signed by Mr. S.K.V. [redacted]

Subject :- The Medical Stores Defalcation Case — Appeal against the order of acquittal.

Sir,

With reference to your letter no. 147, dated 22-4-1939 and in continuation of this office letter no. P 5700, dated 27th April 1939, I am directed to request you to be so good as to send for reference copies of the ~~of~~ charge, judge's notes, and of all the exhibits and oral evidence.

The matter may kindly be treated as urgent.

I have etc:

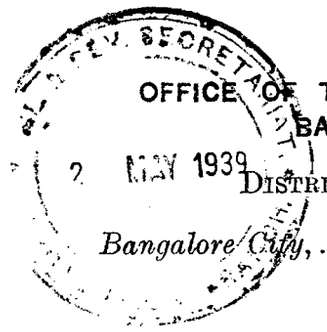
28/1/23

for Addl Secy

No. 168

Enc. .....

6767/?



OFFICE OF THE PUBLIC PROSECUTOR
BANGALORE DIVISION.

DISTRICT OFFICE BUILDINGS,

Bangalore City, 1st May, 1939 19

FROM

G. S. DORASWAMY IYER, Esq., B.A., B.L.,
Public Prosecutor,
Bangalore Division, Bangalore City.

BKR 2.5

To

C. Subramanya Iyer, Esqr, B.A.B.L.,
The Additional Secretary to Govt. of Mysore, Bangalore.

SIR,

The Medical Stores Defalcation case.

I have the honour to acknowledge receipt of your letter No.P.5313 dated 28-4-1939 to submit that most of the copies have been sent to the Secretary, Local Self-Government. The remaining copies are sent herewith. (under Separate Cover)

I have to-day requested the City Superintendent of Police to obtain if possible other copies required.

As soon as they are received I will forward them as desired.

I have the honour to be,

Sir,

Your most obedient servant,

G S Doraswamy Iyer

Public Prosecutor.

Bangalore Dvn, Bangalore.

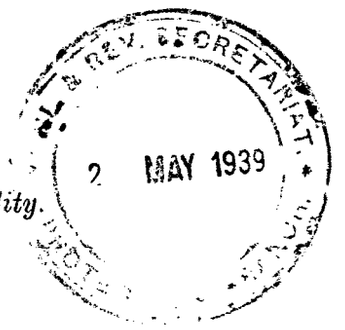
No. 168

Enc. .....

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION.

DISTRICT OFFICE BUILDINGS,

Bangalore City, 1st May, 1939 *193*



FROM

G. S. DORASWAMY IYER, Esq., B.A., B.L.,
Public Prosecutor,
Bangalore Division, Bangalore City.

BAR 2.5

To

C. Subramanya Iyer, Esqr, B.A.B.L.,
The Additional Secretary to Govt. of Mysore, Bangalore.

SIR,

The Medical Stores Defalcation case.

I have the honour to acknowledge receipt of your letter No.P.5313 dated 28-4-1939 to submit that most of the copies have been sent to the Secretary, Local Self-Government. The remaining copies are sent herewith. (under Separate cover)

I have to-day requested the City Superintendent of Police to obtain if possible other copies required.

As soon as they are received I will forward them as desired.

I have the honour to be,

Sir,

Your most obedient servant,

G. S. Doraswamy Iyer

Public Prosecutor.

Bangalore Dvn, Bangalore.

No. 1657

Enc. .....

6770

GEN. SECRETARIAT

2 MAY 1939

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION.
DISTRICT OFFICE BUILDINGS,

Bangalore City, 1st May, 1939 193

FROM

G. S. DORASWAMY IYER, Esq., B.A., B.L.,
Public Prosecutor,
Bangalore Division, Bangalore City.

BAR 2.5

To

The City Superintendent of Police,
Bangalorecity.

SIR,

I have the honour to forward herewith a copy of a letter from Government requiring copies of certain documents in connection with the Medical Stores cases and request you to depute some one to obtain copies of the same. An early reply is requested.

I have the honour to be,
Sir,
Your most obedient servant,

G Doraswamy Iyer

Public Prosecutor.

By submitted to the Additional Secretary to Government for information, Bangalore 2/5

No. 175

Enc. .....

6771/P

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION.

2 [illegible] 1939

DISTRICT OFFICE BUILDINGS,

Bangalore City, 1st May, 1939. *193*

FROM

G. S. DORASWAMY IYER, Esq., B.A., B.L.,
Public Prosecutor,
Bangalore Division, Bangalore City.

BPP 2.5

To

The Additional Secretary to the Government of Mysore,
Bangalore.

SIR,

The Medical Stores Case. Appeal against the order of acqui

I have the honour to acknowledge the receipt of your letter No. P.5700 and to state that the necessary application for copies has been filed.

I have the honour to be,
Sir,
Your most obedient servant,

Doraswamy Iyer

Public Prosecutor,
Bangalore Dvn, Bangalore.

No. 168

Enc. .....

6772/P

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION.

DISTRICT OFFICE BUILDINGS,
Bangalore City, 1st May, 1939 193

FROM

G. S. DORASWAMY IYER, Esq., B.A., B.L.,
Public Prosecutor,
Bangalore Division, Bangalore City.

To

C. Subramanya Iyer, Esqr, B.A.B.L.,
The Additional Secretary to Govt. of Mysore, Bangalore.

SIR,

The Medical Stores Defalcation case.

I have the honour to acknowledge receipt of your letter No.P.5313 dated 28-4-1939 to submit that most of the copies have been sent to the Secretary, Local Self-Government. The remaining copies are sent herewith. (under separate cvr.)

I have to-day requested the City Superintendent of Police to obtain if possible other copies required.

As soon as they are received I will forward them as desired.

I have the honour to be,
Sir,
Your most obedient servant,

G. S. Doraswamy Iyer
Public Prosecutor.

Bangalore Dvn, Bangalore.

I have no objection to your publishing the
enclosed letter.

Yours very truly,

Theodore Roosevelt

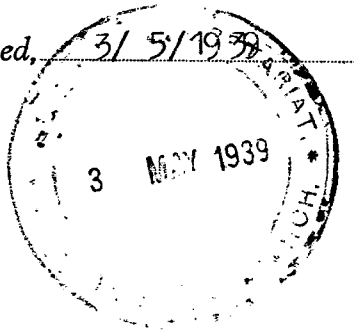
The Honorable Secretary of War.

6619 - 6620
6767
6769
6770
6774

G. S. DORASWAMY IYER, B.A., B.L.,
PUBLIC PROSECUTOR,
BANGALORE CITY.

BANGALORE CITY,

Dated, 3/ 5/1939



D.O.44

Dear Mr. Subramanya Iyer,

BSR/35

I am herewith sending the copies of the depos-tions available with me in connection with the Medical Stores case.

The remaining copies of the evidence are with the Secretary ,Local -Self -Government and the City Superintendent of Police has been requested to furnish the other copies required by you.

Yours sincerely,

S Doraswamy

To

C.Subramanya Iyer,Esqr,B.A.B.L.,
Additional Secretary to Govt.of Mysore,
Bangalore.

Enclosed copies of Evidence in the committing court, order sheets, + portions of depositions of the As Examinants

No. 49

Enc. .....

6893/P

93

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION.

DISTRICT OFFICE BUILDINGS,

Bangalore City, ...5th May,.....1939.

FROM

G. S. DORASWAMY IYER, Esq., B.A., B.L.,
Public Prosecutor,
Bangalore Division, Bangalore City.

To

C. Subramanya Iyer, Esqr.,
Additional Secretary to the Govt. of Mysore,
Bangalore.

SIR,

BKR 9.5

Medical Stores Case.

I have the honour to forward herewith a copy of an objection statement filed by the accused in the above case for favour of information. a copy of the application filed by us is also annexed herewith

I have the honour to be,
Sir,
Your most obedient servant,

submitted for perusal
other report may be awaited.

BKR
17.5

G. S. Doraswamy Iyer
Public Prosecutor,
Bangalore Division,
Bangalore.

W.
10/5
17

not found in file

Appendix F G—1]

Immediate

SUBJECT.....

.....

.....

Section Law

File No.

Serial No.

Diary No. of letter replied to .....

No. P6059

To The P. P.

B'lore

General and Revenue Secretariat

( )

the *193*

Subject :- The Medical Stor Defalcation case

Sir.

Date of issue 16/5/39

Signed by Mr BKR

With reference to the correspondence ending with your letter no 188, dated 5-5-1939 on the above subject, I am directed to request you to be so good as to send for reference immediately the following papers :-

List of enclosures.....

(1) Appendix to the judgment.

Copied by.....

16/5/39

(2) The charge on which the accused was committed and for which

Examined by.....

was Tried.

The Statement of the accused
under Sec: 342 J

I have etc

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 16th May 1939.

No. P6059

From

The ~~Chief~~ Additional Secretary to the Government of His Highness the Maharaja of Mysore.

To

The Public Prosecutor,
Bangalore.

Sir,

Subject.- The Medical Stores Defalcation case.

With reference to the correspondence ending with your letter No.188, dated 5th May 1939 on the above subject, I am directed to request you to be so good as to send immediately, for reference the following papers:-

(1) Appendix to the judgment.

(2) The charge on which the accused was committed and for which he was tried.

(3) The statement of the accused (under Section 342).

I have the honor to be,
Sir,
Your most obedient servant,

For Additional Secretary to Govt.

7098/K

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION,
DISTRICT OFFICE BUILDINGS,

NO. 15-12/38-39

Enc. 7 Sheets.

Dated 17.5 .....1939.

FROM

G. S. DORASWAMY IYER, ESQ., B.A., B.L.,
Public Prosecutor,
BANGALORE DIVISION,
BANGALORE CITY.

BPP/19.5

TO

The Additional Secretary
to Government
Home
Bangalore.

SIR,

Reference— The Medical Store Retail Cattle Case

I have the honour to invite your kind attention to your letter No P 6059 and to submit such of the documents as are available with me.

I have the honour to be,
Sir,
Your most obedient servant,

G Doraswamy Iyer
Public Prosecutor.

Appendix F G—1]

Immediate

SUBJECT.....

.....

.....

Section Law

File No.

Serial No.

Diary No. of letter replied to .....

No. P6131

To The Dist Magt.

B'lore.

General and Revenue Secretariat

( )

the *193*

Subject:- Medical stores Defalcation Case before the Asst Sessions Judge, B'lore (Sessions Case No. 2/38-39.)

Date of issue 19/5/39

Signed by Mr. B K. R

Sir,

I am directed to request you to be so good as to obtain and send, immediately, direct to the G.A. a copy of the Statement of the accd under Sec: 342 in the above case.

I have etc.

BKR

for Addl Secy:

In all future communications please quote
No. J-1-1329-38.
Enc. one record-

Tel. Address.—"DEPCOM"
Post Box No. 34.

OFFICE OF THE DISTRICT MAGISTRATE,
BANGALORE DISTRICT.

Dated, Bangalore, the ....19th May.....*193*9.

7123/P

FROM

Abdul Aziz Khan, Esq., B.A.,
District Magistrate,
Bangalore District.

To

C. Subrahmanya Iyer, Esq., B.A., B.L.,
Additional *Secretary,*
to the Government of Mysore.
Bangalore.

SIR,

Subject:— Re: Medical Stores Case.

I have the honour to invite your kind reference to the letter No.124 dated 19-4-1939 addressed to you by the Public Prosecutor, in the matter of preferring an appeal against the orders of acquittal passed by the learned Assistant Sessions Judge, Bangalore Division in the above case. It is stated in para 9 of the letter under advertence that the sets of cases u Section 409 are not even as strong as the cases in respect of which the has been acquitted and upon the same evidence in respect of the charges Section 477 A and by the same same Judge. The Public Prosecutor is of opinion that the case under Section 477 A, in which the accused has been acquitted, (B.S.C.2/38-39) is a fit case to be taken up in appeal. I a with the opinion of the Public Prosecutor and request that the Government Advocate may be instructed to file an appeal against the order of acquit passed by the Assistant Sessions Judge.

The trial of the case for offences under Section 409 I.P.C. has bee fixed for 25-5-39. The Public Prosecutor has in para 10 of his letter instructions in the matter of proceeding with the case on the next date hearing as there may be considerable expenditure and inconvenience. Hi suggestion to move for an adjournment of the case under section 409, appeal would be preferred under Section 477 A, is submitted for orders o Government in view of the fact that the sets of cases under Section 409 reported to be not as strong as those of the cases under Section 477 which the accused has been acquitted.

Copies of judgment and depositions of the case in wh
may be filed are enclosed.

No.
Enc.

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION,

Bangalore City, 13th JULY 39. *193*

Confidential.

FROM

G. S. DORASWAMY IYER, ESQ., B.A., B.L.,
PUBLIC PROSECUTOR,
BANGALORE DIVISION, BANGALORE CITY.

SECY. LAW DEPT. 14 JULY 1939 GOVT OF MYSORE

SECY. TO GOVT. 14 JUL. 1939 LAW DEPARTMENT BRANCH

The Secretary to Government,
Law Department,
Bangalore.

SIR,

The Medical Stores Case.

I have the honour to state that for reasons personally explained and under the circumstances an application has been filed as annexed herewith.

I have the honour to be,
Sir,
Your most obedient servant,

Public Prosecutor,
Bangalore Division,
Bangalore.

mitted for perusal. The adjourned hearing date will be ascertained after the 17th instant

In the Court of the Assistant Sessions
Judge Bangalore

BSC of 38-39

Government. Vs. Venkatesaiya Setty

Under Sec 344 Cr. P.C the
Complainant prays that this Case be kindly
adjourned by three weeks as the under-
signed has not yet got the Copies of the
Exhibits and depositions in the Case.
Notice of this will be served on the learned
Counsel for the Accused.

Bangalore
the 12th July 1939

Public Prosecutor

Copy Submitted to the Secretary
to Government, Law. Department, Bangalore

No. 400

Enc. .....

386

Confidential

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION.

DISTRICT OFFICE BUILDINGS,

Bangalore City, 17th July 1939.

FROM

G. S. DORASWAMY IYER, Esq., B.A., B.L.,
Public Prosecutor,
Bangalore Division, Bangalore City.

To

Chief Secretary to the Government
of Mysore, Bangalore.

SIR,

3/8/39

I have the honour to state that the Medical Stores Case before the Assistant Sessions Judge, Bangalore, has been adjourned on a special motion. The first application for an adjournment was rejected. I respectfully solicit instructions as to the future conduct of the case and in particular about the probable date to which the case may be posted.

I have the honour to be,
Sir,
Your most obedient servant,

S Doraswamy Iyer

Public Prosecutor.

In reply please refer to
No. 52

One File
Encl.

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

Bangalore, 18th July 1939. *193*

398/P

19 JUL 1939
PROTECTION BRANCH

Dear Sir,

Re: Medical Stores Case.

In continuation of my U. O. No.112/38-39 dated the 30th June 1939, I am returning herewith, the Depositions of Witnesses (one set) of both Courts, received back from the Development Secretary this day.

Yours sincerely,

Nanjundappa

C. Subrahmanya Aiyar, Esq., B.A., B.L.,
Secretary to Government,
Law Department, Bangalore.

LEGY. LAW DEPT.
18 JULY 1939
GOVT OF MYSORE

In all future communications please quote
No. J1.1329/38-39.

Tel. Address.—"DEPCOM"
Post Box No. 34.

SECY. LAW DEPT. 27 JULY 1939 GOVT OF MYSORE

398

FROM

Abdul Aziz Khan, Esq., B.A.
District Magistrate,
Bangalore District.

To

C. Subrahmanya Aiyar, Esq., B.A., B.L.,
Secretary,
to the Government of Mysore.
Law Department, Bangalore.

SIR,

Subject:— Medical Stores Cases.

In continuation of this letter of even number dated 17-7-1939 on the above subject, I have the honor to state that the Public Prosecutor, Bangalore Division, writes to say that the Assistant Session Judge, Bangalore, refused on 17-7-1939 the first application for an adjournment of the case but on a special motion he is stated to have granted an adjournment to 15-8-1939. The case has been adjourned so far 4 times from 25-5-1939, to which date the case had been originally fixed for trial.

As it is not likely that any further adjournment can be granted, the case has to be proceeded with on the next date of hearing i.e., 15-8-1939

I therefore request that the instructions sought for in this office letter no.J1.1329-38 dated 20-5-1939 may kindly be issued early.

I have the honor to be,
Sir,
Your most obedient servant,

A.A. Khan

By District Magistrate,
Bangalore District.

perusal.
file is before
her.

Law Secretary) 28/7
MZH.

Draft orders
as many file

28/7

SECY. LAW DEPT.

Appendix F G—1]

SUBJECT... .....

.....

.....

Section Laws

File No. 44-38

Serial No. 0

Diary No. of letter replied to.. .....

No. P 711/Records

To

The Dist Magt.

B'lore

General and Revenue Secretariat

( )

the *193*

Subject:- Medical Stores, Defal-
-cation cases - Appeal against acquittal.

Sir,

With reference to the correspon-
-dence ending with your letter no. JI. 1329/38-39 dated 25th July 1938 requesting order of Govt. in the matter of filing an appeal to the High Court from the order of acquittal passed by the Asst. Sessions Judge, B'lore, in Sessions Case No. 2/38-39 in regard to the above, I am directed to state that the Govt. are advised that this is not a fit case for filing an appeal and that the the question may be dropped.

Date of issue 7.8.39

Signed by ..... Mr. K.P.P.

List of enclosures.... .....

Copied by.....

Examined by.....

WD 0563—GPB—30,000—6-1-39

~~disregarded~~ the charge

of mis-appropriation under Sec: 409 I.P.C. I am to state that the Govt. Consider that this Case need not be proceeded with, and to request you therefore to be so good as ~~as~~ to arrange + have this Case withdrawn

The words received are pending against the accu

If, after further investigation, any other ~~cases~~ items of falsification or mis-appropriation could be proved, a prosecution may be laid in regard to it

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P 711 Law 44-38-9
Gen. Records

Dated, Bangalore, 5th August 1939.

From

The Secretary to the Government of His Highness the Maharaja of Mysore,
Law Department.

To

The District Magistrate,
Bangalore.

Subject - Medical stores defalcation cases - Appeal against acquittal.

Sir,

With reference to the correspondence ending with your letter No.Jl - 1329/38-39 dated 25th July 1939 requesting orders of Government in the matter of filing an appeal to the High Court from the order of acquittal passed by the Assistant Sessions Judge, Bangalore, in Sessions Case No.2/38-39 in regard to the above, I am directed to state that the Government are advised that this is not a fit case for filing an appeal and that therefore the question may be dropped.

As regards the charge of misappropriation under Section 409 I.P.C. pending against the accused, I am to state that the Government consider that this case need not be proceeded with, and to request you therefore to be so good as to arrange to have this case withdrawn.

If, after, further investigation, any other items of falsification or mis-appropriation could be proved, a prosecution may be laid in regard to them.

The records received are herewith returned.

I have the honour to be,
Sir,
Your most obedient servant,

Sd/-C. Subramanya Aiyar,

Secretary to Government,
Law Department.

Memo No. P 712 / Exec. Records

Dated, Bangalore, 7th August 1939.

Copy of the above is forwarded with compliments to the Public Prosecutor, Bangalore, with the entire records received.

No. P857-8 Q 12.8.39 (2) the D. G. & Police and (3) to the Senior Surgeon.

For Secretary to Government,
Law Department.

No. 222 885/P

Enc. 1

SECY. TO GOVT. MYSORE. Law 10 AUG. 1939

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION.

DISTRICT OFFICE BUILDINGS,

Bangalore City, 9th August, 193[illegible]

1078

From

G. S. DORASWAMY IYER, Esq., B.A., B.L.,
Public Prosecutor,
Bangalore Division Bangalore City.

SECRETARIAT 10 AUG 1939

To

The Secretary to Government of Mysore,

Law Department,

Bangalore.

Sir,

I have the honour to state that in pursuance of the letter of Government No. P. 711 Law 44-38 -39 dated 7-8-1939, the case against Venkatesiah Setty in the Assistant Sessions Court will be withdrawn today.

I have the honour to be,

S i r,

Your most obedient servant,

G S Doraswamy

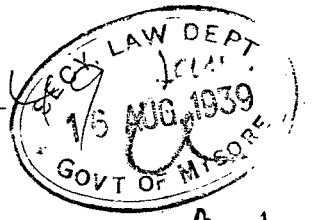
Public Prosecutor,

Bangalore Dvn, Bangalore.

885 / 1033 / 1939

No. 2

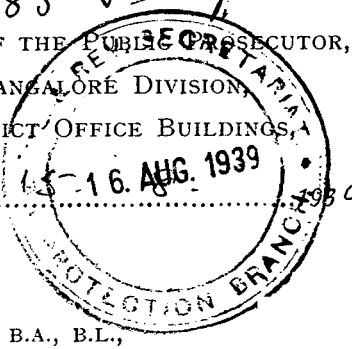
Enc.



3/1627

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION,
DISTRICT OFFICE BUILDINGS,

Dated 15-16 AUG. 1939.



FROM

G. S. DORASWAMY IYER, ESQ., B.A., B.L.,
Public Prosecutor,
BANGALORE DIVISION,
BANGALORE CITY.

To The Law Secretary.
The Government of Mysore
Bangalore city.

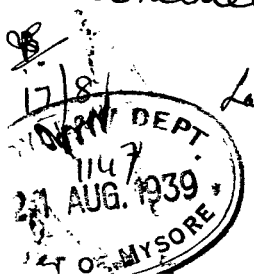
SIR,

Reference— Re medical store case
Before the ~~Additional~~ Assistant
Sessions Judge Bangalore

I have the honour to invite your kind attention to the above and to state Orders were passed today acquitting the accused under S 494(B).

Submitted for perusal.

I have the honour to be,
Sir,
Your most obedient servant,



17/8

Law Secty.

3/1887

18/8

G Doraswamy Iyer
Public Prosecutor.

3/1887

4/8/39

22-8-39